REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED
31 MARCH 2007

(REVENUE RECEIPTS)

GOVERNMENT OF TAMIL NADU

2C

RAJ BHAVAN LIBRARY
CHENNAI

GOVERNMENT OF TAMIL NADU
TRUTH ALONE TRIUMPHS

REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2007

(REVENUE RECEIPTS)

GOVERNMENT OF TAMIL NADU

8374

www.cag.gov.in

RAJ BHAVAN LIBRARY
CHENNAI

TABLE OF CONTENTS

Paragraph		Page
	Preface	**v**
	Overview	**vii**
	CHAPTER I **GENERAL**	
1.1	Trend of revenue receipts	1
1.2	Variations between budget estimates and actuals	4
1.3	Cost of collection	5
1.4	Analysis of arrears of revenue	5
1.5	Arrears in assessment	6
1.6	Evasion of tax	7
1.7	Write off and waiver of revenue	8
1.8	Refunds	8
1.9	Results of audit	9
1.10	Failure to enforce accountability and protect interest of the Government	9
1.11	Departmental audit committee meeting	11
1.12	Response of the department/Government to draft audit paragraphs	11
1.13	Follow-up on Audit Reports – summarised position	12
1.14	Recovery of revenue of accepted cases	12

RAJ BHAVAN LIBRARY CHENNAI

Paragraph		Page
	CHAPTER II **SALES TAX**	
2.1	Results of audit	13
2.2	Assessment, levy and collection of sales tax including arrears	14
2.3	Incorrect grant of exemption from levy of tax	37
2.4	Application of incorrect rate of tax	38
2.5	Erroneous treatment of contract of sale as works contract	41
2.6	Cross verification of records in other departments	44
2.7	Non/short levy of tax	45
2.8	Incorrect computation of taxable turnover	47
2.9	Affording of excess credit	49
2.10	Short levy of resale tax	49
2.11	Short levy of interest	49
	CHAPTER III **STATE EXCISE**	
3.1	Results of audit	51
3.2	Non-raising of demand for short fall in minimum off-take of liquor	52
3.3	Non-levy of import fee on the stocks of concentrates imported	52
3.4	Non-realisation of licence fee	53
3.5	Non-levy of special import permit licence fee on direct import of IMFS by clubs and star hotels	53

Paragraph		Page
	CHAPTER IV **STAMP DUTY AND REGISTRATION FEES**	
4.1	Results of audit	55
4.2	Incorrect/excess allocation of surcharge to local bodies	55
4.3	Short levy of stamp duty and registration fees due to undervaluation of property	56
4.4	Incorrect exemption of stamp duty	58
	CHAPTER V **OTHER TAX RECEIPTS**	
5.1	Results of audit	59
	TAXES ON VEHICLES	
5.2	Computerisation of Transport Department	61
5.3	Short collection of tax	72
	LAND REVENUE	
5.4	Inordinate delay in leasing of the Government lands	72
5.5	Non-revision and non-collection of lease rent	73
	URBAN LAND TAX	
5.6	Omission to assess urban land tax	74

Paragraph		Page
	CHAPTER VI **NON-TAX RECEIPTS**	
6.1	Results of Audit	75
	A - MINES AND MINERALS	
6.2	Short collection of royalty	76
6.3	Non/short collection of dead rent	77
	B - MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT	
6.4	Non-realisation of licence fees	78

PREFACE

This report for the year ended 31 March 2007 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising sales tax, land revenue, stamp duty and registration fees, taxes on vehicles, state excise, agricultural income tax, urban land tax and non-tax receipts.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2006-07 as well as those noticed in earlier years, but could not be included in the previous years' reports.

OVERVIEW

The report contains 25 paragraphs including two reviews relating to non/short levy of taxes, interest, penalty, etc. involving Rs.151.38 crore. Some of the major findings are mentioned below:

I General

The revenue raised by the State during 2006-07 was Rs.40,913.23 crore, comprising Rs.27,771.15 crore as tax revenue and Rs.3,422.57 crore as non-tax revenue. Rs.6,393.86 crore was received from the Government of India as State's share of divisible Union taxes and Rs.3,325.65 crore as grants-in-aid. Thus the revenue raised by the State Government was 76 *per cent* of the total revenue receipts. Sales tax (Rs.17,727.16 crore) formed a major portion (64 *per cent*) of the tax revenue of the State. Interest receipts, dividends and profits (Rs.1,134 crore) accounted for 33 *per cent* of the non-tax revenue.

(Paragraph 1.1)

Test check of the records of sales tax, state excise, land revenue, urban land tax, taxes on vehicles and other departmental offices conducted during the year 2006-07 revealed underassessments, short levy, loss of revenue and other observations amounting to Rs.377.99 crore in 6,692 cases.

(Paragraph 1.9)

As at the end of June 2007, 6,638 inspection reports containing 23,047 audit observations involving Rs.2,772.37 crore were outstanding in various departments.

(Paragraph 1.10)

II Sales Tax

A review of **Assessment, levy and collection of sales tax including arrears** revealed the following:

- Absence of a time limit for finalisation of assessments under the TNGST Act and failure to follow the standing orders led to large pendency of assessment cases.

(Paragraph 2.2.6)

- Lack of a prescribed time limit for implementation of the D3 proposals led to large pendency. 6,757 'D3 proposals' involving money value of Rs.3,604.19 crore were pending implementation as on 31 March 2006.

(Paragraph 2.2.7)

- Lack of a prescribed time limit for finalisation of the remand cases under the TNGST Act resulted in huge pendency. 1,719 remanded cases involving value of Rs.167.04 crore were pending re-assessment as on 31 March 2006.

(Paragraph 2.2.8)

- Lack of a system for the CCT to monitor disposal of cases pending decision with various appellate/judicial fora resulted in pendency of 4,635 court cases involving a sum of Rs.1,679.68 crore.

(Paragraph 2.2.11)

- Non-adherence to the codal provisions for levy of interest on unpaid tax resulted in short levy of interest of Rs.27.93 crore in 22 cases.

(Paragraph 2.2.14)

- Issue of clarifications without verifying the nature of goods involved led to short realisation of Rs.2.56 crore in four assessment circles.

(Paragraph 2.2.15)

- In 10 assessment circles, there was non/short levy of additional sales tax of Rs.1.96 crore.

(Paragraph 2.2.16)

- In 32 assessment circles though there was shortfall in payment of tax by 82 dealers, penalty of Rs.1.93 crore was not levied.

(Paragraph 2.2.17)

Incorrect grant of exemption on inter-state sale of cocount resulted in non/short levy of tax of Rs.9.06 crore.

(Paragraph 2.3)

Application of incorrect rate of tax in 14 cases resulted in short levy of tax of Rs.8.53 crore.

(Paragraph 2.4)

Erroneous treatment of contract of sale as works contract resulted in short levy of tax of Rs.3.17 crore.

(Paragraph 2.5)

Cross verification of records of the Customs Department and Geology and Mining Department with that of Commercial Taxes Department revealed non/short levy of tax of Rs.1.37 crore.

(Paragraph 2.6)

III State Excise

There was inordinate delay in levying penalty of Rs.64.32 crore for the short fall in achievement of minimum off-take of liquor by the licensees.

(Paragraph 3.2)

IV Stamp Duty and Registration Fees

In five Registration offices due to undervaluation of properties, there was short levy of stamp duty and registration fees of Rs.1.46 crore.

(Paragraph 4.3)

V Other Tax Receipts

A review of **Computerisation of the Transport Department** revealed the following:

- Initial adoption of the software of a private firm instead of the freely available NIC software resulted in an unproductive expenditure of Rs.80.63 lakh

  (Paragraph 5.2.6.1)

- Computerisation started as early as in 1998 is yet to be completed and put to use in full form despite an expenditure of Rs.14 crore.

  (Paragraph 5.2.6.2)

- Non-linking of the offices with a central database resulted in failure to achieve the desired objectives and wastage of resources in terms of manpower and storage space.

  (Paragraph 5.2.6.3)

- The software lacked built in alert mechanism to ensure revenue collection and adherence to mandatory requirements.

(Paragraph 5.2.7.5)

- Lack of input controls resulted in duplication of chassis number and engine number of the vehicles and capturing of irrelevant dates and incorrect values for the key fields made the data unreliable.

(Paragraph 5.2.8)

There was inordinate delay in leasing of Government lands to a company. The company was in possession of 415.19 acres of the Government land since 1975 without making any payment.

(Paragraph 5.4)

VI Non-Tax Receipts

Cross verification of the records of the Assistant Director of Geology and Mining, Tirunelveli with the Customs Department revealed garnet and ilmenite escaping assessment leading to short collection of royalty and price of the mineral by Rs.6.74 crore.

(Paragraph 6.2)

In five *taluks*, owners of 284 public buildings did not apply for licences/ renewal of licences resulting in non-realisation of licence fee of Rs.14.20 lakh.

(Paragraph 6.4)

CHAPTER I

GENERAL

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Tamil Nadu during the year 2006-07, State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.	Particulars	2002-03	2003-04	2004-05	2005-06	2006-07
I	Revenue raised by the Government of Tamil Nadu					
	• Tax Revenue	14,341.71	15,944.97	19,357.04	23,326.03	27,771.15
	• Non-tax revenue•	1,860.62 (1,742.46)	2,093.79 (2,058.53)	2,208.35	2,600.75	3,422.57
	Total	**16,202.33 (16,084.17)**	**18,038.76 (18,003.50)**	**21,565.39**	**25,926.78**	**31,193.72**
II	Receipts from the Government of India					
	• State's share of divisible Union taxes	3,047.57	3,544.20	4,236.39	5,012.74	#6,393.86
	• Grants-in-aid	1,586.84	2,122.75	2,649.75	3,020.47	3,325.65
	Total	**4,634.41**	**5,666.95**	**6,886.14**	**8,033.21**	**9,719.51**
III	**Total receipts of the State [(I) + (II)]**	20,836.74 (20,718.58)	23,705.71 (23,670.45)	28,451.53	33,959.99	40,913.23
IV	**Percentage of I to III**	**77**	**76**	**76**	**76**	**76**

The above table indicates that during the year 2006-07, the revenue raised by the State Government was 76 *per cent* of the total revenue receipts (Rs.40,913.23 crore) as in the preceding year. The balance 24 *per cent* of receipts during 2006-07 was from the Government of India.

• Figures in bracket represent non-tax revenue including receipts from lotteries net of expenditure on prize winning tickets.

\# For details please see Statement No.11 – Detailed accounts of revenue by minor heads of Finance Accounts of the Government of Tamil Nadu for the year 2006-07. Figures under the head '0021 – Taxes on income other than corporation tax – Share of net proceeds assigned to States' booked in the Finance Accounts under 'A – Tax revenue' have been excluded from the revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

1.1.1 The following table presents the details of tax revenue raised during the period 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Heads of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+) or decrease (-) in 2006-07 over 2005-06
1	Sales tax	9,589.60	11,004.63	12,996.18	15,554.69	17,727.16	14
2	State excise	2,113.61	1,657.10	2,549.00	3,176.65	3,986.42	25
3	Stamp duty and registration fees	1,079.12	1,316.40	1,604.36	2,084.86	2,997.46	44
4	Taxes on vehicles	745.62	934.29	1,014.75	1,124.93	1,260.88	12
5	Land revenue	8.40	17.50	71.95	179.48	120.68	(-) 33
6	Taxes on agricultural income	1.63	1.25	0.59	0.13	0.07	(-) 46
7	Taxes on immovable property other than agricultural land (urban land tax)	12.69	12.03	11.81	11.86	14.45	22
8	Others	791.04	1,001.77	1,108.40	1,193.43	1,664.03	39
Total		**14,341.71**	**15,944.97**	**19,357.04**	**23,326.03**	**27,771.15**	**19**

The reasons for increase/decrease in 2006-07 over 2005-06 as furnished by the departments are mentioned below:

Sales tax: The increase was due to more receipt of revenue of 21.55 *per cent* under the Central Sales Tax Act and 12.94 *per cent* under State Sales Tax Act.

State excise: The increase was attributed to considerable increase in volume of sale of Indian made foreign liquor/beer.

Stamp duty and registration fees: The increase was mainly due to increase in registration of documents and introduction of the levy of Rs.100 from March 2006 on each document, encumbrance certificate and certified copies of scanning.

The other departments did not inform (November 2007) the reasons for variation despite being requested (June 2007).

1.1.2 The following table presents the details of major non-tax revenue raised during the period 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Heads of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+) or decrease (-) in 2006-07 over 2005-06
1	Interest receipts, dividends and profits	594.70	559.74	590.05	819.91	1,134.00	38
2	Crop husbandry	62.22	61.61	57.27	66.43	74.45	12
3	Forestry and wild life	157.44	90.21	155.07	138.59	82.31	(-) 41
4	Non-ferrous mining and metall-urgical industries	181.09	377.54	409.58	465.68	566.64	22
5	Education, sports, art and culture	89.50	122.58	143.43	209.98	215.83	3
6	Other receipts						
	• State lotteries	119.50	22.18	---	----	-----	-----
	• Others	656.17	859.93	852.95	900.16	1,349.34	50
	Total	**1,860.62**	**2,093.79**	**2,208.35**	**2,600.75**	**3,422.57**	**32**

The reasons for increase/decrease in 2006-07 over 2005-06 as furnished by the departments are mentioned below:

Interest receipts: The increase was mainly due to more interest receipts from local bodies, public sector and other undertakings and on investment of cash balances.

Forestry and wild life: The decrease was mainly due to decrease of revenue from sale of timber and other forest produce and lower receipts from social and farm forestries.

The other departments did not inform (November 2007) the reasons for variations despite being requested (June 2007).

1.2 Variations between budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2006-07 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget estimates	Actuals	Variations excess (+) or short fall (-)	Percentage of variation
1	Sales tax	18,089.66	17,727.16	(-) 362.50	(-)2
2	State excise	3,673.26	3,986.42	313.16	9
3	Stamp duty and registration fees	2,451.65	2,997.46	545.81	22
4	Taxes on vehicles	1,248.28	1,260.88	12.60	1
5	Land revenue	52.63	120.68	68.05	129
6	Taxes on immovable property other than agricultural land (urban land tax)	16.27	14.45	(-)1.82	(-)11
7	Taxes and duties on electricity	250.00	266.40	16.40	7
8	Interest receipts, dividends & profits	748.50	1,134.00	385.50	52
9	Non-ferrous mining and metallurgical industries	527.91	566.64	38.73	7
10	Crop husbandry	70.96	74.45	3.49	5
11	Roads and bridges	28.83	33.01	4.18	15
12	Major and medium irrigation	17.95	28.51	10.56	59

The following reason for variation was reported by the Land Revenue Department:

Land revenue: The increase was mainly due to increased receipts from sale proceeds of waste lands and redemption of land tax.

The other departments did not inform (November 2007) the reasons for variations despite being requested (June 2007).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and percentage of such expenditure to gross collection, during the years 2004-05, 2005-06 and 2006-07 along with the relevant all India average percentage of expenditure on collection to gross collection for 2005-06 were as follows:

(Rupees in crore)

Sl. No.	Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2005-06
1	Sales tax	2004-05	12,996.18	102.34	0.79	0.91
		2005-06	15,554.69	106.64	0.69	
		2006-07	17,727.16	120.96	0.68	
2	Taxes on vehicles	2004-05	1,014.75	48.56	4.79	2.67
		2005-06	1,124.93	49.50	4.40	
		2006-07	1,260.88	30.43	2.41	
3	State excise	2004-05	2,549.00	25.88	1.02	3.40
		2005-06	3,176.65	27.76	0.87	
		2006-07	3,986.42	33.11	0.83	
4	Stamp duty and registration fees	2004-05	1,604.36	84.02	5.24	2.87
		2005-06	2,084.86	86.83	4.16	
		2006-07	2,997.46	106.89	3.57	

Thus, the percentage of expenditure on collection in respect of stamp duty and registration fees was higher than the all India average.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2007 in respect of some principal heads of revenue amounted to Rs.318.48 crore, of which Rs.127.39 crore were outstanding for more than five years as mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2007	Amount outstanding for more than 5 years as on 31 March 2007	Remarks
1	2	3	4	5
1	Stamp duty and registration fees	160.35	43.97	The entire arrears were covered by the recovery certificates.

1	2	3	4	5
2	Urban land tax	114.98	40.98	Demands amounting to Rs.14.37 crore were stayed by the Government, High Court and other judicial authorities. Recovery of Rs.8.56 crore was stayed by the Principal Commissioner of Land Reforms. Rs.86.97 crore was under various stages of collection. Rs.5.08 crore has since been collected.
3	State excise	40.53	40.53	Out of the total arrears of Rs.40.53 crore, demands amounting to Rs.16.00 crore were covered under the Revenue Recovery Act; demands amounting to Rs.1.85 crore were stayed by High Court and other judicial authorities; Rs.4.14 crore was held up due to rectification/ review application. Rs.31 lakh was held up on account of persons becoming insolvent and Rs.18.23 crore was under various stages of collection.
4	Taxes on vehicles	2.62	1.91	Out of the total arrears of Rs.2.62 crore, demands amounting to Rs.1.82 crore were covered under the Revenue Recovery Act. Demands amounting to Rs.33 lakh were stayed by the High Court and other judicial authorities. Rs.11 lakh is likely to be written off. Rs.25 lakh was under various stages of collection. Rs.11 lakh has since been collected.
	Total	**318.48**	**127.39**	

The position of arrears of revenue pending collection at the end of 2006-07 in respect of other departments, was not furnished (November 2007), despite being requested (June 2007).

1.5 Arrears in assessment

The number of cases pending for assessment at the beginning of the year 2006-07, becoming due during the year, disposed during the year and pending finalisation at the end of the year 2006-07 alongwith the figures for the preceding four years as furnished by the Commercial Taxes Department in respect of Sales Tax and Revenue Department in respect of Urban Land Tax are mentioned below:

Heads of revenue	Opening balance	Cases which become due for assess-ment	Total	Cases disposed during the year	Cases pending at the end of the year	Percentage of disposal (Col.5 to4)
1	2	3	4	5	6	7
2002-03						
Sales Tax	33,208	1,38,048	1,71,256	1,22,757	48,499	72
Urban Land Tax	3,048	1,421	4,469	88	4,381	2
2003-04						
Sales Tax	48,499	1,64,397	2,12,896	1,59,363	53,533	75
Urban Land Tax	4,421	1,583	6,004	911	5,093	15
2004-05						
Sales Tax	53,533	1,71,052	2,24,585	1,70,293	54,292	76
Urban Land Tax	5,093	2,227	7,320	1,383	5,937	19
2005-06						
Sales Tax	54,292	1,77,496	2,31,788	1,62,872	68,916	70
Urban Land Tax	5,937	3,812	9,749	2,101	7,648	22
2006-07						
Sales Tax	68,916	1,82,457	2,51,373	1,51,825	99,548	60
Urban Land Tax	7,648	2,076	9,724	2,974	6,750	31

The above table reveals that disposal of the sales tax assessment cases ranged between 60 and 76 *per cent* during 2002-03 to 2006-07. It was the least in 2006-07. The disposal of the urban land tax assessment case ranged between 2 and 31 *per cent* during 2002-03 to 2006-07.

1.6 Evasion of tax

The details of cases of evasion of sales tax detected, sales tax cases finalised and demands for additional tax raised as reported by the Commercial Taxes Department are mentioned below:

Head of revenue	Cases pending as on 31 March 2006	Cases detected during 2006-07	Total cases	Cases in which assessments/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2007
				No.	Amount (Rupees in crore)	
Sales tax						
• Enforcement wing.	6,582	1,532	8,114	7,833	Not furnished	281
• Administrative wing.	6,757	6,900	13,657	7,223	88.96	6,434

It is necessary to finalise these cases at the earliest to minimise the risk of loss of revenue.

1.7 Write off and waiver of revenue

During the year 2006-07, Rs.2.23 lakh (in six cases) relating to sales tax was written off by the department as irrecoverable. Reasons for the write off as reported by it are mentioned below:

(Rupees in lakh)

Sl. No.	Reasons	No. of cases	Amount
1	Defaulters not having any property	5	2.02
2	Defaulters adjudged insolvent	1	0.21
	Total	6	2.23

In addition to the above, sales tax amounting to Rs.32 lakh in 19 cases was waived by the department during the year.

1.8 Refunds

The number of refund cases pending at the beginning of the year (1 April 2006), claims received during the year, refunds allowed during the year and cases pending at the close of the year (31 March 2007) as reported by the departments are mentioned below:

(Rupees in crore)

Sl. No.	Particulars	Sales tax		Taxes on vehicles	
		No. of cases	Amount	No. of cases	Amount
1	Claims outstanding at the beginning of the year	79,498	162.87	22	0.09
2	Claims received during the year	23,760	68.01	786	1.37
3	Refunds made during the year	20,103	45.18	767	1.33
4	Balance outstanding at the end of the year	83,155	185.70	41	0.13

Tamil Nadu General Sales Tax Act (TNGST Act) provides for payment of interest, calculated at the rate of one *per cent* or part thereof, if the excess amount is not refunded to the dealer within 90 days from the date of order of assessment or revision of assessment or within 90 days from the date of receipt of order passed in appeal, revision or review. The pending refund cases need attention to avoid mandatory payment of interest.

1.9 Results of audit

Test check of the records of sales tax, land revenue, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax and non-tax receipts conducted during 2006-07 revealed underassessment/short levy/loss of revenue and other observations amounting to Rs.377.99 crore in 6,692 cases. During the year, the departments accepted underassessment of Rs.96.33 crore in 2,539 cases pointed out in 2006-07 and earlier years and recovered/adjusted Rs.64.84 crore.

This Report contains 25 paragraphs involving two reviews relating to non/short levy of taxes, duties, interest and penalties and other audit observations involving revenue of Rs.151.38 crore. The departments/ Government accepted audit observations involving revenue of Rs.78.42 crore, of which Rs.56.94 crore had been recovered/adjusted by the departments upto September 2007. Final reply has not been received in respect of the remaining cases (October 2007).

1.10 Failure to enforce accountability and protect interest of the Government

Audit observations on incorrect assessments, short levy of taxes, duties and fees, etc., as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. Serious financial irregularities are reported to the heads of the departments concerned and the Government. The heads of offices are required to furnish replies to the

inspection reports through their respective heads of departments within a period of two months.

1.10.1 The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 2006, which were pending for settlement by the departments as on 30 June 2007, along with corresponding figures for the preceding two years are mentioned below:

	Position as on 30 June		
	2005	**2006**	**2007**
Number of inspection reports pending for settlement	6,134	6,708	6,638
Number of outstanding audit observations	20,477	22,549	23,047
Amount of revenue involved (Rs.in crore)	2,399.64	2,556.70	2,772.37

The increase in the outstanding audit observations is indicative of non-compliance with the Government's instruction to send replies to the initial audit observations and report on further action taken thereon within the stipulated time. Though State audit committees and departmental audit committees were constituted in March 1993 with the objective of expeditious settlement of the outstanding observations, the number of observations were still on the increase.

1.10.2 Revenue headwise breakup of the inspection reports and audit observations outstanding as on 30 June 2007 is mentioned below:

Sl. No.	Revenue heads	Number of outstanding		Amount (Rupees in crore)	Earliest year to which the inspection report relates
		Inspection reports	Audit obser-vations		
1	2	3	4	5	6
1	Sales tax	3,194	15,597	842.50	1987-88
2	Stamp duty and registration fees	903	1,480	140.87	1984-85
3	Land revenue	800	1,978	1,096.46	1988-89
4	Taxes on vehicles	451	924	83.96	1983-84
5	State excise	292	997	143.22	1987-88
6	Taxes on agricultural income	86	227	81.47	1986-87
7	Mines and minerals	272	681	302.96	1989-90

1	2	3	4	5	6
8	Urban land tax	239	644	36.86	1983-84
9	Electricity duty	60	110	33.46	1986-87
10	Entertainment tax	111	134	9.03	1992-93
11	Luxury tax	218	252	1.49	1997-98
12	Betting tax	12	23	0.09	1991-92
	Total	**6,638**	**23,047**	**2,772.37**	

1.11 Departmental audit committee meeting

During the course of the year 2006-07, five meetings were held in respect of electricity duty and taxes on vehicles. 250 paras involving a revenue of Rs.5.42 crore were settled during these meetings. In respect of other receipts, no departmental audit committee meeting was held during the year 2006-07.

1.12 Response of the department/Government to draft audit paragraphs

The Government (Finance Department) had issued directions (April 1952) to all the departments to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs are forwarded to the secretaries of the concerned departments through demi official letters, drawing their attention to the audit findings and requesting them to send their response within six weeks from the date of receipt of the draft paragraphs. The fact of non-receipt of replies from the departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

52 draft paragraphs (combined into 25 paragraphs including two reviews of this report) proposed to be included in this Report were forwarded to the secretaries of the respective departments during the period from April to June 2007, through demi official letters followed by reminders in September 2007.

The secretaries of the departments did not send replies to 48 draft paragraphs including one review and thus there was non-compliance to the above mentioned instructions of the Government. These paragraphs have been included in this report without the response of the secretaries of the departments.

1.13 Follow-up on Audit Reports – summarised position

With a view to ensure accountability of the executive in respect of all the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC) directed that the concerned departments should furnish remedial/corrective action taken notes (ATN) on all paragraphs contained therein, within the prescribed time frame.

A review of the outstanding ATNs as of 31 March 2007 on paragraphs included in the Report of the Comptroller and Auditor General of India, Revenue Receipts, Government of Tamil Nadu, discussed by the PAC revealed that the departments had not submitted the ATNs in respect of 1,015 recommendations pertaining to 292 audit paragraphs (the earliest of which relate to the Report of 1986-87).

Further, PAC has also laid down that necessary explanatory notes for the issues mentioned in the Audit Reports should be furnished to the committee within a maximum period of two months from the date of placing the Reports before the legislature. Though the Audit Reports for the years from 1998-99 to 2004-05 were placed before the Legislative Assembly between May 2000 and May 2006, the departments are yet to submit explanatory notes for 69 paragraphs (including eight reviews) included in these reports.

1.14 Recovery of revenue of accepted cases

In respect of paragraphs featured in the Audit Reports 2001-02 to 2005-06, the department/Government accepted audit observations involving Rs.129.47 crore of which only Rs.15.29 crore had been recovered till 31 August 2007 as mentioned below:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2001-02	512.60	10.90	8.74
2002-03	1,032.59	83.77	1.53
2003-04	815.05	25.95	0.58
2004-05	576.20	5.12	2.63
2005-06	228.71	3.73	1.81
Total	**3,165.15**	**129.47**	**15.29**

CHAPTER II

SALES TAX

2.1 Results of Audit

Test check of the records of departmental offices conducted during the period from April 2006 to March 2007 revealed underassessments, non-levy of penalty and other observations amounting to Rs.158.54 crore in 3,455 cases, which broadly fall under the following categories.

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1.	**"Assessment, levy and collection of sales tax including arrears" (A review)**	1	37.00
2.	Incorrect exemption from levy of tax	303	48.29
3.	Application of incorrect rate of tax	476	31.22
4.	Non-levy of penalty/interest	670	29.66
5.	Incorrect computation of taxable turnover	306	11.16
6.	Escapement of taxable turnover	2	0.22
7.	Others	1,697	0.99
	Total	**3,455**	**158.54**

During the course of the year 2006-2007, the department accepted underassessments and other deficiencies amounting to Rs.5.70 crore in 358 cases, out of which, Rs.1.13 crore involved in 245 cases were pointed out during the year and the rest in earlier years. Of these, the department recovered Rs.99 lakh during the year.

After issue of the draft paragraphs, the department recovered Rs.19.47 lakh in seven cases.

A review of **Assessment, levy and collection of sales tax including arrears** and a few illustrative cases involving Rs.64.54 crore are discussed in this chapter.

2.2 Assessment, levy and collection of sales tax including arrears

- Absence of a time limit for finalisation of assessments under the TNGST Act and failure to follow the standing orders led to large pendency of assessment cases.

(Paragraph 2.2.6)

- Lack of a prescribed time limit for implementation of the D3 proposals led to large pendency. 6,757 'D3 proposals' involving money value of Rs.3,604.19 crore were pending implementation as on 31 March 2006.

(Paragraph 2.2.7)

- Lack of a prescribed time limit for finalisation of the remand cases under the TNGST Act resulted in huge pendency. 1,719 remanded cases involving value of Rs.167.04 crore were pending re-assessment as on 31 March 2006.

(Paragraph 2.2.8)

- Lack of a system for the CCT to monitor disposal of cases pending decision with various appellate/judicial fora resulted in pendency of 4,635 court cases involving a sum of Rs.1,679.68 crore.

(Paragraph 2.2.11)

- Non-adherence to the codal provisions for levy of interest on unpaid tax resulted in short levy of interest of Rs.27.93 crore in 22 cases.

(Paragraph 2.2.14)

- Issue of clarifications without verifying the nature of goods involved led to short realisation of Rs.2.56 crore in four assessment circles.

(Paragraph 2.2.15)

- In 10 assessment circles, there was non/short levy of additional sales tax of Rs.1.96 crore.

(Paragraph 2.2.16)

- In 32 assessment circles, though there was shortfall in payment of tax by 82 dealers, penalty of Rs.1.93 crore was not levied.

(Paragraph 2.2.17)

2.2.1 Introduction

The Tamil Nadu General Sales Tax Act, 1959 (TNGST Act) and the Tamil Nadu General Sales Tax Rules made thereunder provide for levy and collection of sales tax from dealers whose annual turnover exceeds the limit prescribed under the Act. According to Rule 18(2) of the TNGST Rules, the dealers have to submit monthly returns showing the total and taxable turnover and the amount of tax collected during the month. The dealers whose taxable turnover exceeds Rs.200 crore in the preceeding year have to submit the return on or before the 12th of the succeeding month. All other dealers have to submit the monthly returns on or before the 20th of the succeeding month.

The tax demanded as per the final assessment order is payable within 30 days from the date of service of the demand notice. In case of failure on the part of the assessee to pay the amount demanded within the prescribed date, the department may recover the amount through any of the following methods:

- as arrears of land revenue under the Revenue Recovery Act (RR Act)/Central Revenue Recovery Act (CRR Act);
- by application to the magistrate for recovery as a fine; and
- by a demand on any person owing money to the assessee by issue of notice.

The above provisions also apply to assessments finalised under the Central Sales Tax Act, 1956 (CST Act).

A review of the system of assessment, levy and collection of sales tax including arrears was conducted by audit. It revealed a number of system and compliance deficiencies which have been discussed in the subsequent paragraphs.

2.2.2 Organisational set-up

The Commissioner of Commercial Taxes (CCT) is the head of the department of Commercial Taxes and is assisted by Joint Commissioners (JC), Deputy Commissioners (DC) and Territorial Assistant Commissioners (AC) who exercise administrative control. The Assistant Commissioners of Fast Track Assessment Circles (FTAC), Commercial Tax Officers (CTO)/Deputy Commercial Tax Officers (DCTO) and Assistant Commercial Tax Officers (ACTO) are the assessing authorities (AA) who are responsible for the levy and collection of sales tax and arrears thereof in the respective assessment circles. In addition, there is also an Enforcement Wing, which has been formed for the purpose of conducting surprise inspections and unearthing of suppression of turnover to prevent leakage of revenue. The monitoring and control at the Government level is done by the Secretary, Commercial Taxes and Registration Department.

2.2.3 Audit objectives

The review was conducted with a view to examine:

- the efficiency and effectiveness of the existing system of assessments, levy and collection of tax and pursuance thereof;
- the extent of compliance with the provisions of the TNGST Act and Rules governing the assessment and collection of tax;
- the efficiency and effectiveness of the system to collect the arrears of tax; and
- whether there was any lacuna in the Act/Rules or absence of any norm that hindered the collection of the Government revenue.

2.2.4 Scope and methodology of audit

The assessment records relating to the period 2001-02 to 2005-06 were test checked in 112 out of 323 assessment circles during the period from August 2006 to April 2007. Besides, records in the offices of CCT and DCs were also scrutinised. The selection of the units was done on the basis of the maximum revenue collection and geographical location.

2.2.5 Acknowledgment

Indian Audit and Accounts Department acknowledges the co-operation of the Finance Department and the Commercial Tax Department in providing necessary information and records for audit. The draft review report was forwarded to the Government and department in May 2007 and was discussed in the Audit Review Committee (ARC) meeting held in July 2007. The views expressed by the Government/Department at the meeting have been considered and incorporated appropriately.

Audit findings

System deficiencies

2.2.6 Absence of time limit for finalisation of the assessment

The TNGST Act does not prescribe any time limit for the finalisation of the assessments. However, standing order 20(H) of the Tamil Nadu Commercial Taxes Manual Volume I provides for finalising the assessments before the end of January of the year following the submission of the returns and should not in any case, be postponed beyond 31 July of the following year. **Audit scrutiny revealed that the department had failed to follow its own standing orders.** This has resulted in large pendency of assessment cases which is discussed in the succeeding paragraphs.

2.2.6.1 Pendency of assessment cases

The number of pending cases at the beginning of the year, due for assessment during the year, disposed during the year and pending at the end of the year as furnished by the Department of Commercial Taxes for the period from 2001-02 to 2005-06 are mentioned below:

Year	Opening balance of cases	New cases due for assessment	Total cases due for assessment	Cases disposed	Balance of cases at the end of the year
2001-02	24,707	1,39,404	1,64,111	1,30,903	33,208
2002-03	33,208	1,38,048	1,71,256	1,22,757	48,499
2003-04	48,499	1,64,397	2,12,896	1,59,363	53,533
2004-05	53,533	1,71,052	2,24,585	1,70,293	54,292
2005-06	54,292	1,77,496	2,31,788	1,62,872	68,916

Thus, pendency in assessments has been steadily rising every year. The number of pending cases has risen by 179 *per cent* from 24,707 in 2001-02 to 68,916 cases in 2005-06.

2.2.6.2 Pendency of assessment in the Fast Track Assessment Circles (FTAC)

The FTACs were formed with a view to finalise high value assessment cases expeditiously for timely realisation of revenue. The FTACs are headed by the ACs, who are the assessing authorities. There are six FTACs, four in Chennai and two in Coimbatore.

The pendency in assessments in the four FTACs at Chennai as furnished by the department is mentioned below:

Year	Opening balance of cases	New cases due for assessment	Total	Number of assessments finalised	Closing balance of cases	Percentage of disposal
2001-02	489	148	637	136	501	21
2002-03	501	179	680	122	558	18
2003-04	558	142	700	57	643	8
2004-05	643	147	790	73	717	9
2005-06	717	181	898	134	764	15

Thus, the pendency in assessments in the FTACs have also been rising steadily every year. The number of pending cases have risen by 56 *per cent* from 489 cases in 2001-02 to 764 cases in 2005-06. Disposal of the cases ranged between eight and 21 *per cent* only during this five year period. Out of the 764 cases pending at the end of 2005-06 in four FTACs, 363 cases were possible[1] cases. Of these, 74 cases were pending for more than five years

[1] Free from any litigation

while 172 cases were pending for more than three years. The ever rising and heavy pendency in finalisation of the assessments has defeated the very objective of formation of the FTACs.

In the ARC meeting, the JC (Audit) while agreeing with the audit observation, stated that the situation was now being monitored by six JCs and efforts would be made for early finalisation of the assessments.

It is recommended that a statutory time limit be prescribed in the Act for finalisation of the assessments. Adherence to this should be closely monitored to avoid accumulation of assessment cases.

2.2.7 Delay in implementation of the taxation proposals

The Enforcement Wing, after inspection of the premises of the assessees, forwards its findings in the form of proposals, known as 'D3 proposals' (taxation proposals) to the AAs for implementation. Whenever such D3 proposals are received from the Enforcement Wing, the AA is required to take prompt action to implement the proposal and finalise the assessment. The CCT had issued instructions in September 2002 that on receipt of the D3 proposal, the AA should give top priority for calling the accounts, check them and complete the assessments. If any arrears are allowed to become irrecoverable or assessment cannot be completed in the absence of the whereabouts of the dealers, the AA as well as the Enforcement Wing officers are to be dealt with severely. **No time limit for implementation of the D3 proposals has been prescribed by the Government. Audit noticed large pendency in implementation of the D3 proposals which indicates lack of effective monitoring of the disposal of the D3 proposals.**

Audit scrutiny of the monthly performance statistics of the department revealed that 6,757 'D3 proposals' involving money value of Rs.3,604.19 crore were pending for implementation as on 31 March 2006. Out of these 1,046 'D3 proposals' involving Rs.2,729.19 crore were more than 5 years old. Of these, 427 proposals involving Rs.174.97 crore were shown as 'possible cases' and the remaining 619 cases as 'not possible cases'.

2.2.7.1 It was noticed in 13 assessment circles[2] that 76 'D3 proposals' pertaining to the years 1985-86 to 2003-04 received during the period between 1988 and 2005 were not implemented. This resulted in blocking of Government revenue of Rs.290.56 crore. The reason for non-implementation of the 'D3 proposals' was non-finalisation of the original assessments, though all these cases were stated to be possible cases. A few such cases are illustrated below:

[2] Dr. Nanjappa Road, Coimbatore, FTAC-I to IV (Chennai), FTAC-I & II (Coimbatore), Madurai (Rural) (South), Nethaji Road (Erode), Nungambakkam, Peelamedu, Perur and Trichy Road (Coimbatore).

(Rupees in crore)

Sl. No.	Assessment Circle	Year	Month of receipt of proposal	Amount	Remarks
1	FTAC-IV Chennai	1993-94 to 1995-96	October 1998	4.92	D3 proposal received in October 1998 is yet to be implemented even after the lapse of eight years as the original assessments are pending.
2	FTAC-I, Coimbatore	1997-98 to 2000-01	March 2001	4.51	D3 proposal received in March 2001 is yet to be implemented even after a lapse of five years as the original assessments are pending.
3	FTAC-II, Chennai	1997-98 1999-00 to 2003-04	Between March 1999 and March 2004.	27.61	D3 proposals were received between March 1999 and March 2004 The proposals are yet to be implemented.
4	FTAC-II, Chennai	1985-86 to 1988-89	Between September 1988 and July 1997	16.41	D3 proposals were received between September 1988 and July 1997. The proposals are yet to be implemented.

2.2.7.2 In FTAC-II, Chennai, two 'D3 proposals' in respect of an assessee for the year 1999-2000 involving Rs.9.42 lakh and Rs.20.64 crore were received in May 2000 and February 2003 respectively. The D3 proposal involving Rs.9.42 lakh alone was implemented during finalisation of the assessment in June 2005 and the other proposal involving Rs.20.64 crore was not implemented. However, the entries in the register meant for watching implementation of the D3 proposals were deleted as if both the proposals had been implemented. This resulted in non-realisation of revenue of Rs.20.64 crore.

The large pendency in the implementation of the D3 proposals shows lack of effective control and monitoring of the receipt and disposal. Delay in finalisation of D3 proposals adversely affects the collection of the Government dues and in some cases delayed finalisation results in the dues becoming irrecoverable. **Thus, to reduce the pendency of such cases and expedite the revenue collection it is recommended that a time limit be prescribed for finalising the D3 proposals and monitoring should be made effective to ensure that no proposal escapes implementation beyond the prescribed time.**

2.2.8 Delay in finalisation of the remanded cases

An assessee aggrieved by an order passed by the assessing officer/appellate authority may file an appeal to the appellate authority/higher appellate forum concerned within the prescribed period from the date of receipt of assessment/appeal order. The appellate authority/forum may reject or accept the appeal and allow the relief sought for or remand the case back to the assessing officer for reassessment. **No time limit for finalisation of the remand cases has been prescribed in the TNGST Act. Audit noticed large pendency in finalisation of the remand cases which indicates lack of effective system for monitoring such cases.**

The position of receipt, disposal and closing balance of the remanded cases as on 31 March 2006 as furnished by the department is mentioned below:

(Rupees in lakh)

Details		2001-02	2002-03	2003-04	2004-05	2005-06
Opening Balance	No.of cases	2,540	2,938	2,527	1,956	1,738
	Amount	8,134.90	13,423.38	14,576.77	15,527.66	16,360.20
Cases received during the year	No.of cases	4,554	2,780	1,691	1,708	1,836
	Amount	6,495.66	2,650.30	2,470.30	2,308.66	3,992.57
Total	No.of cases	7,094	5,718	4,218	3,664	3,574
	Amount	14,630.56	16,073.66	17,047.07	17,836.32	20,352.77
Disposal	No.of cases	4,156	3,191	2,262	1,926	1,855
	Amount	1,207.18	1,496.91	1,519.41	1,476.12	3,649.08
Closing balance	No.of cases	2,938	2,527	1,956	1,738	1,719
	Amount	13,423.38	14,576.77	15,527.66	16,360.20	16,703.69

Thus, 1,719 remanded cases involving revenue of Rs.167.04 crore were pending reassessment as on 31 March 2006. Out of these, 684 cases are more than five years old.

2.2.8.1 Laxity on the part of the department is evident from the following seven illustrative remanded cases involving revenue of Rs.57.54 crore noticed in six assessment circles. The reassessment in these cases is yet to be made by the AAs even after the lapse of two to six years.

RAJ BHAVAN LIBRARY CHENNAI

(Rupees in crore)

Sl. No.	Assessment Circle/ (No. of dealers)	Year	Month/ Year of remand order	Amount	Remarks
1	FTAC-IV, Chennai (1)	1995-96	4/2002	0.85	The appeal was preferred by the assessee in April 2000. The case was remanded in April 2002 with direction to pass fresh orders within three months. But assessment is yet to be made.
2	FTAC-II, Chennai (1)	1992-93 1996-97	12/2000 1/2002	44.35	The assessments were remanded in December 2000 and January 2002 for fresh disposal, on appeal preferred by the assessee. Fresh assessment orders are yet to be passed even after the lapse of five years.
3	FTAC-I, Chennai (1)	1987-88 1989-90 1993-94	6/2004 12/2000 5/2001	4.30	The assessments were remanded between December 2000 and June 2004 for passing fresh orders. However, fresh assessment orders are yet to be passed.
4	Peelamedu (North) (1)	1989-90 1990-91	3/2005	2.52	The appeal was filed in 2003. The case was remanded in March 2005. The case is yet to be finalised.
5	Avinashi Road, Coimbatore (2)	1994-95 1995-96	1/2001	3.19	The assessments were remanded in January 2001. Fresh assessment orders are yet to be passed even after a lapse of more than six years.
6	Nungambakkam (1)	1991-92 1992-93 1993-94	8/1999 12/1999	2.33	The cases were remanded as early as in August/December 1999. However, remand orders were stated to have been received in June 2004 only. Fresh assessments are yet to be made.
	Total			**57.54**	

8374
350.7232 R
P07

2.2.8.2 Deletion of confirmed demand

During audit, it was noticed in FTAC-II, Chennai and Big Bazaar Street assessment circle, Coimbatore that in six cases where assessments relating to the years 1992-93, 1995-96 and 1997-98 were partly remanded and partly confirmed by the appellate authorities during 1999 to 2004, the amount of tax of Rs.20.46 crore confirmed by the appellate authorities was eliminated from the concerned registers by the AAs.

Such elimination of demands which were confirmed in appeal would lead to losing the track of recovery in future and foregoing of interest, which in the case of confirmed demand is leviable from the date of the original assessment order. Delay in assessment of the remand cases adversely affects the collection of the Government dues and in some cases delayed finalisation results in the dues becoming irrecoverable. Thus, it is imperative on the part of the Government to evolve a strong surveillance system to keep a strict vigil on the finalisation of remand cases.

It is recommended that a statutory time limit be prescribed for finalising the remanded cases. Adherence to such limit has to be closely monitored to avoid pendency and to expedite revenue collection.

2.2.9 Delay in reassessment to rectify the errors noticed in the assessments

The TNGST Act provides for revision of the assessment at any time within a period of five years from the date of passing of the original assessment order. Such revision which has the effect of increase of tax or penalty can, however, be made only after the issue of the revised notice of assessment and on expiry of the notice period. **No register has been prescribed for watching the disposal of revision cases wherein the details of issue of prerevision notices could be entered to ensure timely action by the AAs.**

Test check of the records in eight[3] assessment circles revealed that prerevision notices involving additional revenue of Rs.4.20 crore were issued by the AAs between June 2004 and March 2006 in 56 cases. Thereafter, the AAs had neither revised the assessments nor recorded any reason for not having revised the assessments even after the lapse of one to three years from the issue of the prerevision notices.

It is recommended that a suitable register be prescribed for recording the details of issue of prerevision notices for monitoring timely finalisation of the revision cases.

2.2.10 Uncollected revenue (arrears)

Registers F3[4] and F3A[5] are maintained in the assessment circles to watch the collection of arrears. Arrears pending at the end of March of the preceeding year as per the Register F3A are brought forward to the F3 Register at the beginning of April of each year. Audit test checked the collection of arrears and the deficiencies noticed are mentioned in the following paragraphs:

---

[3] Ambattur, Attur (Rural), Brough Road (Erode), Choolai, Koyambedu, Nungambakkam, Sriperumbudur and Tiruvanmiyur.

[4] A register to record the amount of collection of old arrears.

[5] A register to record month wise the revenue realised on account of tax.

The amount of sales tax revenue and arrears thereof during the past five years is mentioned below:

(Rupees in crore)

Year	Opening Balance	Arrears added during the year	Arrears collected during the year	Cumulative arrears at the end of the year	Sales tax revenue	Percentage of cumulative arrears to the revenue of the year
2001-02	7,197.00	4,173.91	2,900.23	8,470.68	8,385.59	101
2002-03	8,470.68	3,519.18	3,271.27	8,718.59	9,589.60	91
2003-04	8,718.59	1,815.68	4,005.15	6,529.12	11,004.63	59
2004-05	6,529.12	4,131.38	3,554.08	7,106.42	12,996.18	55
2005-06	7,106.42	8,089.31	4,688.21	10,507.52	15,554.69	68

Thus, arrears which showed an improvement in 2003-04, have steadily increased in the subsequent years and the balance as on 31 March 2006 stood at Rs.10,507.52 crore.

The category wise break up of the arrears at the end of March 2006 is as mentioned below:

(Rupees in crore)

Pending for recovery under the RR Act	3,898.78
Pending under deferral[6]/BIFR	3,881.99
Stayed by Government /High Court, etc.	1,850.00
Pending for write off/waiver	565.20
Held up due to rectification/revision	276.91
Amount since collected	34.64
Cumulative arrears as on 31 March 2006	**10,507.52**

Recovery of the bulk of the arrears is held up either due to litigation or because of revenue recovery and BIFR (Board for Industrial and Financial Reconstruction) proceedings.

2.2.11 Delay in pursuance of Court cases

Wherever appeals are filed by the assessees against the assessments before the appellate/judicial fora, it is imperative that the AAs initiate prompt action to vacate stay, if any, granted by the appellate fora or to file the counter affidavits so as to facilitate early disposal of the cases and realisation of the revenue. **Audit noticed that no system existed for the CCT to monitor disposal of the cases pending with various appellate/judicial fora. No return to monitor filing of counter affidavits/stay vacation petitions wherever needed has been prescribed by the CCT.**

[6] Amount pending under deferral, though shown as arrears by the department, is not due for collection during the current year and would become payable only on the expiry of the deferral period.

As per the monthly performance statistics of the department 4,635 court cases involving revenue of Rs.1,679.68 crore were pending recovery as on 31 March 2006 due to stay granted by various judicial/appellate fora as mentioned below:

(Rupees in crore)

Sl. No.	Cases pending in	Number	Amount of arrears
1	Supreme Court	352	19.75
2	High Court	1,444	1,322.31
3	Sales Tax Appellate Tribunal	582	83.11
4	Tamil Nadu Taxation Special Tribunal	258	25.22
5	DC (Appeal)	77	146.33
6	Appellate Assistant Commissioner	1,922	82.96
	Total	**4,635**	**1,679.68**

2.2.11.1 Test check of the records in 11[7] circles revealed that 16 disputed cases involving revenue of Rs.439.47 crore were pending with the judicial/appellate forums. The department had not taken any action to file the counter affidavits or vacation petitions to expedite disposal of the cases or for vacation of stays granted against collection of tax. A few illustrative cases are mentioned below:

(Rupees in crore)

Sl. No.	Assessment circle	Assessment year / Amount	Remarks
1	2	3	4
1	FTAC-II, Coimbatore	1997-98 to 1999-00 / 159.72	The assessee filed writ petition in 2004 and the High Court ordered interim stay in March 2004. The department is yet to file the counter affidavit even after the lapse of two years.
After the case was pointed out, the department stated (June 2007) that counter affidavit was prepared by the Additional Government Pleader on 28 November 2006. The fact of actual filing of the counter affidavit has not been confirmed, despite request.			

[7] Avinashi Road (Coimbatore), Chingleput, FTAC-II & IV (Chennai), FTAC-II (Coimbatore), Nandanam, Park Road (Erode), Perur, R.S. Puram (West), Sriperumbudur and Tiruvanmiyur.

1	2	3	4
2	FTAC-IV, Chennai	1989-90 to 1994-95 11.94	The Madras High Court rejected the claim of an assessee for waiver of tax. The Supreme Court admitted the special leave petition filed by the assessee and ordered the department in May 2001 to file counter affidavit within four weeks. The counter affidavit was, however, filed by the department only in June 2003. The Special Government Pleader had opined in November 2003 that there was no stay for collection of arrears. However, action for recovery was initiated by the department only in December 2004 and Rs.1 crore was collected in January 2006 i.e. after a delay of two years and two months. The failure of the department to take timely action has resulted in blocking of revenue of Rs.10.94 crore.
		1992-93 283.67	The assessee filed an appeal against the assessment order before the DC (Appeal) and a writ petition before the Madras High Court in 1998. The High Court in an interim order in August 2003 allowed the AA to finalise the assessment but restrained the department from taking any coercive action for collection of tax. However, no assessment was made by the AA. In addition, no counter affidavit was filed by the department against the writ petition. The failure of the department to file the counter affidavit even after the lapse of more than eight years has resulted in blocking of revenue of Rs.283.67 crore.
3	Perur	1996-97 9.22	The High Court ordered that counter affidavit should be filed by the department by 14 June 2004. The CCT in his letter dated 4 July 2005 had also directed the Special Government Pleader to prepare and send the draft counter affidavit and stay vacation petition early. However, the counter affidavit is yet to be filed. The failure of the department to file the counter affidavit even after the lapse of more than two years has resulted in blocking of revenue of Rs.9.22 crore.
4	Tiruvanmiyur	1989-90 1998-99 1999-00 4.61	Writ petitions were filed by the dealer in 2003 and 2004. Interim stays were granted by the Madras High Court in these cases between September 2003 and July 2004. The department had not filed counter affidavits in these cases and, the interim stay granted in respect of 1998-99 was made absolute by the Madras High Court. The failure of the department to file the counter affidavit even after the lapse of more than four years has resulted in the non-realisation of Rs.4.61 crore.
5	Sriperumbudur	1998-99 44.31	A writ petition was filed by the dealer. The High Court ordered interim stay in November 2004. The department is yet to file the counter affidavit. The failure of the department to file the counter affidavit even after the lapse of more than two years has resulted in blocking of revenue of Rs.44.31 crore.
After the case was pointed out, the AA replied (June 2007) that the delay was on the part of the Government Pleader and he would be addressed to expedite the matter.			

2.2.11.2 In the FTAC II and IV, Chennai, assessments of three dealers in petroleum products were kept pending on the ground that the writ petition filed by the dealers before the Madras High Court in 1988 was pending. The assessments involved levy of purchase tax of Rs.104.48 crore on the value of excise duty relating to the clearance of petroleum products from warehouses. The levy of purchase tax was confirmed[8] by the Supreme Court in 1996 itself in the case of the same two assessees relating to the FTAC II & IV, Chennai. **However, the department failed to bring the facts to the notice of the Madras High Court for speedy disposal of the pending writ petition.** This has resulted in blocking of revenue of Rs.104.48 crore besides foregoing of interest leviable thereon.

It is recommended that a system be evolved to monitor all the cases pending in various appellate/judicial fora to prevent failures to file counter affidavits/stay vacation petitions, etc. Suitable returns in this regard may also be prescribed.

2.2.12 Deficiencies in pursuance of the cases pending before the Board for Industrial and Financial Reconstruction (BIFR)

As per the Sick Industrial Companies (Special Provision) Act, 1985, where a reference for declaration as sick unit is filed and proceedings thereon are pending before the BIFR, no suit for recovery of money or enforcement of any dues against the company shall lie or be proceeded with further, except with the consent of the Board. Where a company has been declared 'sick' by the Board, the department has to ensure inclusion of all the arrears in the 'statement of liabilities' of the company furnished to the Board. The CCT had issued instructions in 2001 that AAs should ensure the correctness of the amount of arrear furnished to BIFR; check up the rehabilitation package drafted by the operating agency so as to ensure that it covered the sales tax liabilities; and initiate action for recovery of the amount not covered by the sanction of BIFR. **No return was, however, prescribed by the department to ensure that the instructions of the CCT were being followed. Audit noticed a wide variation between the actual dues and those dues reported to BIFR which is indicative of failure in the functioning of the system. This also indicated that the department was not following its own instructions.**

Test check of the records in eight assessment circles revealed that eight cases were pending before the BIFR after the assessees had declared themselves as 'sick'. The failure of the department to check underreporting of arrears, monitor the progress of the cases in BIFR, etc. resulted in non-realisation of Rs.85.82 crore as mentioned below:

---

8 Hindustan Petroleum Corporation & Indian Oil Corporation Vs. State of Kerala (1996) 118 STC P.311 (SC)

(Rupees in crore)

Sl. No.	Assessment Circle	Amount	Remarks
1	2	3	4
1	FTAC-II, Chennai	78.07	The assessee had shown only Rs.3.98 crore as sales tax arrears in the statement filed before the Board in March 2002 as against the actual arrears of Rs.82.05 crore. The department had not taken up the matter with BIFR.
2	FTAC-I, Coimbatore	0.25	Pursuant to the rehabilitation package ordered by the AAIFR[9], the Government granted in November 1997, deferral of sales tax for three years, subject to payment of the outstanding arrears. The arrears were wrongly determined as Rs.56,000, which was paid in October 2000, as against the correct amount of Rs.25.24 lakh. This resulted in non-realisation of arrears of Rs.24.68 lakh.
3	Tallakulam	0.66	The interest recoverable from the assessee for violation of the conditions of deferral was incorrectly worked out by the department as Rs.5.76 lakh and it was intimated to the operating agency appointed by the Board. The correct amount of interest recoverable was Rs.72.06 lakh. This has resulted in understatement of arrears by the department.
4	Tirupparankundram	0.41	The interest recoverable from the assessee for violation of the conditions of deferral was not shown as arrears in the 'statement of liabilities' furnished to the BIFR.
5	Alandur	0.23	Arrears of Rs.23 lakh had accrued subsequent to the filing of the petition before the BIFR in July 1998. The amount was recoverable from the assessee in December 2000. However, no action was initiated by the department till September 2005 for recovery of the arrears.
6	Nungambakkam	2.14	The department had neither ascertained whether the reporting of sales tax arrears by the assessee company to the BIFR was correct nor had it kept itself informed of the developments of the case before the BIFR, with the result that when the department addressed the BIFR in 2006, it was informed that orders for winding up of the company were issued in October 2001. As a result, Rs.2.14 crore has not been realised.

9 Appellate Authority for Industrial and Financial Reconstruction.

1	2	3	4
7	Mandaveli	0.20	BIFR ordered the winding up of the company with effect from 1 December 2001. The claim petition had not been filed by the department with the official liquidator even after the lapse of more than five years.
8	Egmore-II	3.86	The cut off date fixed by the BIFR was 31 March 1996. The arrears of Rs.3.86 crore had accrued subsequent to the cut off date. The department had however not initiated any action for recovery of the arrears even after a lapse of 10 years.
	Total	**85.82**	

The wide variation between the actual dues and that reported to BIFR is indicative of failure in the functioning of the system and non-observance of the instructions of the CCT.

In the ARC meeting, the CCT assured that due importance would be given to this aspect. The CCT also informed that DCs and ACs had been instructed to process these cases properly and handling of the BIFR cases would be streamlined.

2.2.13 Revenue Recovery under the Revenue Recovery Act

As per the information furnished by the department, Rs.3,898.78 crore is pending collection under the RR Act. **No time limit has been fixed by the Government for disposal of the certificate cases under the RR Act. No targets were set for collection of the arrears and for evaluating the performance of the AAs. This has resulted in delay in disposal of certificate cases as mentioned below.**

2.2.13.1 Lack of effective action under the State Revenue Recovery Act

According to the Standing Order 30A(1)(b) of the TNCT Manual Volume I, when a defaulter does not own any movable or immovable property in a district and enquiries show that he has properties in other districts, requisition (other district requisition – ODR) should be sent to the assessment circle of the other district where the defaulter owns property to effect the recovery of arrears. On receipt of such requisition, action has to be taken to collect the arrears as if the arrears had accrued in that district.

It was noticed in 15 assessment circles[10] that requisitions for collection of arrears of Rs.18.19 crore pertaining to 23 defaulters were sent to the other districts where the properties of the defaulters were situated. But even after

[10] Alandur, Avinashi Road, Dindigul-III, Gandhipuram, Karur (West), Nandanam, Peelamedu (North) & (South), P.N. Palayam, Salem (Rural), Tallakulam, Thudiyalur, Tiruvanmiyur, Trichy Road (Coimbatore) and Velachery.

the lapse of 2 to 13 years, arrears of Rs.18.19 crore remained uncollected due either to the lack of response from the departmental officers in the other districts or lack of concerted efforts and co-ordination among the officers of the department. A few illustrative cases are mentioned below:

(Rupees in lakh)

Sl. No.	Assessment circle	Year	Amount	Remarks
1	Trichy Road, Coimbatore	1992-93 1994-95	158.40	The ODR was issued to the CTO Mettupalayam Road Circle, Coimbatore in May 2002. However, no action was taken by the CTO Mettupalayam on the ODR even after the lapse of more than five years.
2	Alandur	1989-90 to 1991-92 1993-94 to 1996-97	95.89	The ODR was sent to the CTO Adyar I in July 2001 as the residential property of the defaulter was located in that jurisdiction. The said property was sold by the Indian Bank and the sale proceeds were appropriated against their dues. The department failed to secure the interest of the Government in preference to the other secured creditors with the result that the amount remained uncollected.
3	Tiruvanmiyur	1996-97	21.31	The ODR was sent to the CTO Triplicane I in September 2001 and reminders were issued only in September 2006 and October 2006 for collection. The CTO Triplicane I replied in November 2006 that the above mentioned ODR was not received and hence fresh ODR was sent in December 2006. Thus, the department failed to take adequate follow up action.
4	Peelamedu (North)	1997-98 to 1999-00	28.88	The ODR was issued to the CTO Singanallur in December 2002 and followed by reminders, but these were not responded to even after the lapse of four years.
5	P.N.Palayam	1996-97 1997-98	15.96	The ODRs were issued in respect of two partners. All efforts to recover the arrears from the two partners proved futile. However, no action was taken to recover the arrears from the third partner who is running a business on his own and has immovable property.

The large amounts blocked under the RR Act indicate that concerted and effective efforts are not being made towards recovery of the arrears.

2.2.13.2 Lack of proper action under the Central Revenue Recovery Act

When the defaulters do not own any property in the State and if the AA is satisfied that they have properties in the other State, the revenue authorities of the other States may be addressed for collecting the arrears under the CRR Act. For this purpose, the AC (CT) should address the DC giving full details of the defaulter, his address, the arrears due for recovery and the action taken, if any, for collection. A certificate (revenue recovery certificate – RRC) that the arrear is not recoverable in the district should be enclosed with the report. On receipt of the report, the DC shall address the revenue authorities of the other States for enforcing collection.

It was noticed in five assessment circles that in respect of eight assessees, arrears of Rs.4.11 crore pertaining to the years 1993-94 to 1999-2000 remained uncollected. This was mainly due to furnishing of incorrect/incomplete details to the revenue authorities, lack of co-ordination and delay in obtaining the RRC from the revenue authorities concerned as mentioned below:

(Rupees in lakh)

Sl. No.	Assessment circle (No. of dealers)	Year	Amount	Remarks
1	2	3	4	5
1	Alandur Koyambedu (4)	1996-97 to 1999-00	100.95	As per the departmental records, the assessees after closing their businesses in Tamil Nadu had settled in Bhopal, Haryana, Uttar Pradesh and New Delhi. The department requested the District Collectors, Tiruvellore and Kancheepuram between March 2001 and February 2003 to issue the RRCs. The department, however, failed to follow up the matter with the District Collectors and the RRCs are yet to be obtained from the District Collectors. The failure to obtain the RRC even after the lapse of six years has resulted in the arrears remaining uncollected.
2	Alandur (1)	1993-94 to 1996-97	17.00	The RRC was obtained in December 2000 from the District Collector, Tiruvellore under whose jurisdiction Alandur falls. However, the RRC was not forwarded to the revenue authority at Mumbai, where the assessee was ascertained to be residing, to effect recovery.

1	2	3	4	5
3	Avniashi Road, Coimbatore (1)	1998-99	6.11	As per the departmental records, the assessee after closing his business in Tamil Nadu is stated to be residing in Bangalore. Hence the department requested the District Collector, Coimbatore to issue the RRC in November 2000. The RRC issued by the District Collector, Coimbatore in 2001 did not contain the office seal. Though the District Collector was addressed in this regard but the rectified RRC with office seal is yet to be obtained.
4	Chitrakara Street, Madurai (1)	1988-89	17.09	The original RRC issued to the District Collector, Rabi district, Rajasthan was returned in November 2002 as the address of the defaulter was found to be incorrect. The revised RRC with correct address is yet to be issued.
5	Nungam-bakkam (1)	1992-93 to 1993-94	270.21	The assessee was a public limited company having registered office at Chennai and factory at Andhra Pradesh. The company had closed down their business without paying the arrears. Action was not taken under the RR Act to attach the factory premises of the company at Andhra Pradesh. The arrears remain uncollected.
	Total		411.36	

Thus, there is no coordination between the revenue authorities to facilitate early realisation of the arrears locked up under revenue recovery proceedings. **It is recommended that suitable mechanism be evolved to ensure proper co-ordination between the departmental officers and revenue authorities to facilitate early realisation of the arrears locked up under revenue recovery proceedings. It is further recommended that targets may be set for collection of the old arrears and the performance of the AAs be closely monitored and measured against such targets.**

Compliance deficiencies

2.2.14 Non-levy of interest

As per the provisions of Section 17A of the TNGST Act, the territorial ACs were empowered to issue sanction of interest free sales tax (IFST) deferral to manufacturers specifying the amount, subject to fulfillment of certain conditions. In case of any violation of the condition, the entire amount of sales tax deferred is recoverable in lumpsum alongwith interest. Under the provision of the TNGST Act, on any amount remaining unpaid after the due date specified for its payment, the dealer or person shall pay, in addition to the amount due, interest at the rate of two *per cent* per month of such amount for the period of default.

2.2.14.1 It was noticed that in five[11] assessment circles, in respect of 10 cases, while forwarding the requisition for recovery of the arrears under the RR Act, interest of Rs.17.61 crore which had accrued upto the date of requisition was not included in the requisition leading to loss of revenue to the Government.

2.2.14.2 Test check of the records revealed that in six[12] circles, in respect of seven assessee companies which had gone into liquidation, the claim petitions preferred by the department to the official liquidators did not include the interest accrued upto the date of filing of the claim. The failure of the AAs resulted in non-realisation of interest of Rs.7.44 crore.

2.2.14.3 It was noticed in five[13] assessment circles that five dealers were allowed to avail of deferral of tax of Rs.2.23 crore during the period from April 1994 to June 2004. The dealers had, however, stopped production continuously for a period of more than six months during the period of availing of the deferral. Though the ACs raised a demand for recovery of the deferred amount of tax aggregating to Rs.2.23 crore, no action was taken to recover the interest of Rs.2.88 crore.

In the ARC meeting, the CCT stated that the action would be considered for levy of interest under the rules.

2.2.15 Loss of revenue due to issue of incorrect clarification

Under the provisions of Section 28-A of the TNGST Act, the CCT is empowered to issue clarification for the purpose of uniformity in assessment and collection of tax. The CCT may clarify any point concerning the rate of tax or the procedure relating to assessment and collection of tax under this Act. All persons working under the control of the CCT shall observe and follow the clarifications.

It was noticed in four assessment circles that incorrect issue of clarification without verifying the nature of goods involved led to short realisation of revenue of Rs.2.56 crore as mentioned below:

[11] Chitrakara Street (Madurai), Dindigul-IV, Koyambedu, Mandaveli and Nungambakkam.

[12] FTAC-I Coimbatore, Ganapathy Circle (Coimbatore), Kangeyam, Porur, Singanallur and Tiruvanmiyur.

[13] Alandur, Kovilpatti-II, Nungambakkam, Tallakulam and Villivakkam.

(Rupees in lakh)

Sl. No.	Office (No. of dealers)	Commodity	Year	Date of clarification	Rate of Tax (*per cent*)		Amount of short levy
					Applicable	Applied	
1	FTAC-IV, Chennai FTAC-II, Chennai Ambattur (Three)	Coffee, tea premix	2001-02 2002-03	9.8.2004	16	12	101.06
As per entry 3 of Part E of the first schedule to the TNGST Act, sale of non-alcoholic beverages is liable to tax at 16 *per cent*. Coffee/tea premix is a beverage containing instant coffee/tea, milk, sugar, etc. used in coffee/tea vending machine. The assessee company had also marketed its product as a beverage, but it was incorrectly clarified as taxable at 12 *per cent* as a residuary commodity.							
2	FTAC-IV, Chennai (One)	Halls	2002-03	2.1.2004	12	4	139.27
As per the Central Excise Tribunal's decision reported in 42 ELT 33 (1989), 'Halls', an ice mint tablet used for refreshing the mouth and also for cooling and soothing the throat was classified as confectionery item as its major content is sugar. As per entry 5(iii) of Part D of the first schedule to the TNGST Act, confectionery is taxable at 12 *per cent*. But 'Halls' was incorrectly clarified by CCT as an ayurvedic medicine attracting tax of four *per cent*.							
3	Namakkal (Rural) (Two)	Shell grit	2002-03 2003-04 2004-05	11.10.1999	12	8	15.33
Shell grit is a powdered form of sea shells. Sea shells and shell grit are different commercial commodities having different usages. While sea shell is used for making ornamental articles, shell grit is used as raw material for manufacturing white cement, poultry feed, etc. But shell grit was incorrectly clarified as sea shell and exempted from levy of tax under Part B of the third schedule.							
	Total						255.66

The reply of the department in respect of the above mentioned cases has not been received (October 2007).

2.2.16 Non-levy of additional sales tax

As per the provisions of the Tamil Nadu Additional Sales Tax Act, 1970, (TNAST Act) every dealer whose taxable turnover for a year exceeds Rs.10 crore is liable to pay additional sales tax at the prescribed rate on such turnover. The levy was subject to the condition that the aggregate of sales tax and additional sales tax on the declared goods should not exceed four *per cent*.

In 10[14] assessment circles, while finalising the assessments of 40 dealers for the years 1999-2000 to 2004-05 between November 2002 and March 2006, additional sales tax of Rs.1.96 crore was either short levied or omitted to be levied.

---

14 Anna Salai III, Chingleput, Egmore II, FTAC I & III (Chennai), Kothawalchavadi, Koyambedu, Sriperumbudur, Tiruppur (Central)-I and Tiruvanmiyur.

After the cases were pointed out between June 2006 and April 2007, the department revised the assessments in two cases in June 2006/August 2006 and collected the additional demand of Rs.5.96 lakh. The reply of the department in respect of the remaining cases has not been received (September 2007). Two specific cases in which the department has not agreed to the audit observation are discussed below:

2.2.16.1 According to Section 2(p) of the TNGST Act, "taxable turnover" means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover. Further, under Section 3(2-A) of the TNGST Act, in the case of cement mentioned in the fifth schedule, the tax shall be payable by a dealer at the rate and at the point specified therein on the turnover in each year relating to such goods. Thus, the turnover relating to sale of cement other than the first point of sale, on which tax is levied under the TNGST Act is also a taxable turnover and is therefore subject to levy of AST.

In Egmore II assessment circle, while finalising the assessments of a dealer for the years 2002-03 and 2003-04 in March 2004 and February 2005 respectively, the turnover of sale of cement amounting to Rs.22.06 crore assessed to tax at other than the first point of sale was omitted to be considered as taxable turnover for the purpose of levy of AST. This resulted in short levy of AST of Rs.23.52 lakh.

After the case was pointed out in December 2006, the AA replied (June 2007) that AST was leviable only on the first sales turnover and the ambiguity had arisen on account of non-incorporation of Section 3(2-A) in the explanation under TNAST Act which provided for exclusion of various turnovers. The AA further stated that the matter would be brought to the notice of the head of the department for clarification.

The reply is not tenable as the TNAST Act provides for the levy of AST on the taxable turnover of a dealer and not on the first sales turnover and the TNAST Act does not provide for exclusion of turnover relating to sale of cement other than the first point of sale.

2.2.16.2 By notifications issued under Section 17 of the TNGST Act, exemptions were granted in respect of tax and additional tax payable by a dealer on sale of goods to M/s. Hyundai Motors Limited and Ford India Limited.

Test check of the records revealed that in five[15] assessment circles, the taxable turnover of 35 dealers exceeded Rs.10 crore and as such all these dealers were liable to pay AST of Rs.1.62 crore except on the sales made to M/s. Hyundai Limited and Ford India Limited. The AAs, while finalising the assessments of the dealers for the years 1999-2000 to 2004-05, however, treated the turnover relating to the sale of goods to M/s. Hyundai Motors Limited and Ford India Limited as non-taxable turnover and did not consider the same for the purpose of levy of AST. This resulted in non/short levy of AST of Rs.1.62 crore.

---

15 Chingleput, FTAC-I, Chennai, Koyambedu, Sriperumbudur and Tiruvanmiyur.

After the cases were pointed out, the AAs stated that the dealers were not liable to pay AST as the sales made to Hyundai Motors Limited and Ford India Limited were not a part of taxable turnover. After the exclusion of these sales, the dealers were either not liable to pay AST or were liable to pay AST at lower rates.

The reply is not tenable as the turnover representing sale of goods to the firms was not an exempted turnover but only the tax and additional tax thereon were exempted. If the turnover relating to the sales made to M/s. Hyundai Motors Limited and Ford India Limited were an exempted turnover, then there would not be a necessity for issue of specific notification exempting the AST payable on such turnover. This indicates that AST is to be calculated on the entire turnover and thereafter exemption is to be given in respect of AST relating to the sales to M/s.Hyundai Motors Limited and Ford India Limited.

2.2.17 Non-levy of penalty

Under the provisions of Section 12(3)(b) of the TNGST Act as amended from time to time, if there is any short fall in the payment of tax by the assessee at the time of final assessment, the AA shall levy penalty at the prescribed rate on the difference between the tax assessed and the tax paid as per the returns.

It was noticed in 32 assessment circles that though there was short fall in payment of tax by 82 dealers, whose assessments were finalised between February 2004 and March 2006 for the years 2002-03 and 2003-04, penalty amounting to Rs.1.93 crore was not levied.

After the cases were pointed out, the AAs accepted (June 2007) the audit observations in eight cases and levied penalty of Rs.5.28 lakh of which Rs.1.97 lakh was also collected. A reply in respect of the other cases has not been received (October 2007).

2.2.18 Raising of incorrect demand

It was noticed in four circles that in the case of four assessees, the amount of revenue due to be recovered from the defaulters was incorrectly reckoned resulting in short raising of demand of Rs.76.29 lakh as mentioned below:

(Rupees in lakh)

Sl. No	Assess-ment circle	Year	Actual amount	Amount demanded	Amount under-stated	Remarks
1	2	3	4	5	6	7
1	Ambattur	1994-95	14.76	1.48	13.28	The penalty payable for the year 1994-95 amounting to Rs.14.76 lakh was incorrectly reckoned as Rs.1.48 lakh.
After the case was pointed out in January 2007, the department issued a revised notice. A report on collection has not been received (October 2007).						

1	2	3	4	5	6	7
2	Chithode, Erode	1995-96 to 1997-98	146.18	103.04	43.14	The amounts were incorrectly reckoned.
After the cases were pointed out, the assessing officer issued revised demand notice in March 2007. A report on recovery has not been received (October 2007).						
3	Koyam-bedu	1995-96 and 1996-97	30.59	19.88	10.71	As against the amount of Rs.30.59 lakh actually due, the RRC was sent to the District Collector, Goa, under Section 3(1) of the CRR Act for Rs.19.88 lakh only.
After the case was pointed out, the department agreed to issue fresh RRC for Rs.30.59 lakh.						
4	Tiruvan-miyur	1982-83 1986-87 and 1991-92	10.36	1.20	9.16	The tax dues were transferred from Alandur assessment circle to Tiruvanmiyur assessment circle for recovery under the RR Act; as the assessee had shifted his business to that place. Only Rs.1.20 lakh was demanded and the balance amount was omitted to be included in the arrear certificate issued to the assessee. The case had already been settled.
After the case was pointed out, the department agreed to examine the issue. Further report has not been received (October 2007).						
	Total		**201.89**	**125.60**	**76.29**	

2.2.19 Conclusion

Audit noticed that in the absence of a prescribed time limit for finalisation of the assessments and due to ineffective monitoring, the pendency of the assessment cases has increased. The purpose behind creation of FTACs has also not been served. Non-finalisation of the assessments has also led to non-implementation of the taxation proposals (D3 proposals) involving large amounts of revenue. Lack of a system for the CCT to monitor all the cases pending in various appellate/judicial fora resulted in large pendency due to failure to file counter affidavits/stay vacation petitions, etc. Lack of a suitable mechanism to ensure co-ordination between the departmental officers and revenue authorities to facilitate early realisation of the arrears resulted in revenue being locked up under revenue recovery proceedings.

2.2.20 Summary of recommendations

The Government may consider taking the following action for rectifying the system and other issues:

- prescribing a time limit in the Act for finalisation of the assessments. Adherence to this should be closely monitored to avoid accumulation of assessment cases;
- prescribing a time limit for finalising the D3 proposals and monitoring should be made effective to ensure that no proposal escapes implementation beyond the prescribed time;
- prescribing a time limit for finalising the remanded cases. Adherence to such limit should be closely monitored to avoid pendency and to expedite revenue collection;
- prescribing a suitable register for recording the details of issue of prerevision notices for monitoring timely finalisation of the revision cases;
- evolving a system to monitor all the cases pending in various appellate/judicial fora to prevent failures to file counter affidavits/stay vacation petitions, etc. Suitable returns in this regard may also be prescribed; and
- evolving a suitable mechanism to ensure proper co-ordination between the departmental officers and revenue authorities to facilitate early realisation of the arrears locked up under revenue recovery proceedings. Targets may be set for collection of the old arrears and the performance of the AAs be closely monitored and measured against such targets.

2.3 Incorrect grant of exemption from levy of tax

According to Section 8(2-A) of the Central Sales tax Act, 1956 (CST Act), inter-state sale of goods is exempted from the levy of tax if the same is generally exempted under the local Act. If the goods under the local Act are exempted only in specified circumstances or under specified conditions, the inter-state sale of such goods will not be eligible for exemption. As per entry 6(viii) of the second schedule to the TNGST Act, coconut including *copra* is taxable at the rate of four *per cent* at the point of last purchase in the State by a dealer for crushing oil. Under entry 17 of Part B of the third schedule to the Act, coconut, other than those falling under the second schedule, is exempt.

The notification issued under the CST Act prescribes a reduced rate of two *per cent* on inter-state sale of coconut with or without 'C' forms. Consequent to the amendment of the CST Act with effect from May 2002, the reduced rate would be applicable only if the transactions are covered by 'C' forms and

inter-state sale of coconut not covered by 'C' forms is assessable to tax at double the local rate, viz., eight *per cent*.

In six[16] assessment circles, while finalising the assessments of 34 dealers for the years 2002-03 to 2004-05 between April 2004 and March 2006, the AAs levied tax at reduced rates on the turnover of Rs.29.82 crore which represented inter-state sales of coconut not covered by declarations in 'C' form. In 10[17] assessment circles, the AAs, while finalising the assessments of 61 dealers for the years 2002-03 to 2004-05 between April 2005 and June 2006, allowed exemption on inter-state sales turnover of coconut amounting to Rs.89.13 crore. The adoption of reduced rate of tax and the incorrect allowance of exemption resulted in short/non-levy of tax of Rs.9.06 crore.

After the cases were pointed out in audit between November 2005 and February 2007, the AAs contended that the commodity sold was watery coconuts which was generally exempt from the levy of tax under the local Act and hence inter-state sales was also exempt. The reply is not tenable as watery coconut is coconut and coconut is only conditionally exempted under the local Act. This view has also been affirmed by the Madras High Court which has held[18] that exemption granted to coconut under the local Act is not general but a conditional exemption.

The matter was reported to the Government in May 2007; their reply has not been received (October 2007).

2.4 Application of incorrect rate of tax

2.4.1 Under entry 11(ii) of Part D of the first schedule to the TNGST Act, wet dates were taxable at the rate of 12 *per cent* at the point of first sale in the State with effect from 27 March 2002. By a notification issued in February 2004, the rate of tax on the sale of wet dates was reduced from 12 to four *per cent*. Under entry 9 of the XI schedule to the TNGST Act, imported goods falling under Parts D and E of the first schedule were taxable at 20 *per cent* at the point of first sale in the State. Imported wet dates were, therefore, taxable at 20 *per cent*.

Test check of the records in the Rock Fort assessment circle, Trichy, revealed that while finalising the assessments of two dealers for the years 2003-04 and 2004-05 in July 2005 and March 2006 respectively, turnover of Rs.20.21 crore representing first sale of imported dates for the period from 12 February 2004 to 31 March 2005 was assessed to tax at the reduced rate of four *per cent*,

---

16 Attur (Town), Erode (Rural), Karur (West), Salem (Rural), Tirumangalam and Vaniyambadi.

17 Dindigul-V, Erode(Rural), Krishnagiri, Madurai(Rural-South), Mailamchandai I & II, Omalur, Rajapalayam, Srirangam and Vaniyambadi.

18 N.Jagannathan & Sons Vs. DCTO Vaniyambadi and other – 7 VST 57 (Madras)

instead of 20 *per cent*. The application of incorrect rate of tax resulted in short levy of tax of Rs.3.40 crore including surcharge.

After the cases were pointed out in November 2006, the AA stated that the wet dates were imported in bulk and were repacked in small quantities and sold under the Indian brand name "Lion Dates" registered under the Trade and Merchandise Marks Act without mention of the origin of the goods and hence would not attract tax at higher rate.

The reply is not tenable as the goods were imported and were, therefore, liable to tax at 20 *per cent*. The CCT in specific clarifications addressed to the dealer himself in January 2003 and July 2004, had stated that wet dates of foreign origin whether imported directly from other countries or purchased from other States were liable to tax at 20 *per cent*. Thus, charging of lesser rate of tax was incorrect.

The matter was reported to the Government in January 2007/April 2007; their reply has not been received (October 2007).

2.4.2 The TNGST Act provides for the levy of tax on sale or purchase of goods at the rates and at the points mentioned in the relevant schedules to the Act. According to the provisions of the CST Act, on inter-state sale of goods other than declared goods, not covered by valid declarations in form 'C', tax is leviable at 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher.

2.4.2.1 In exercise of the powers conferred under Section 8(5) of the CST Act, the Government issued a notification dated 5 March 1997 stipulating that the tax payable by a dealer on inter-state sale of man made staple fibre yarn be reduced to two *per cent*, provided the dealer had not effected any branch transfer or consignment transfer of goods during the year.

Scrutiny of the annual returns and monthly returns filed by two assessees in Tallakulam and Mandaveli assessment circles revealed that the dealers had effected stock and consignment transfer of goods during the years 2000-01 and 2001-02. The dealers were, therefore, not entitled to the reduced rate of tax specified in the notification. The AA, however, allowed the reduced rate of tax on inter-state sale of polyester yarn and nylon monofilament yarn amounting to Rs.14.24 crore. The adoption of incorrect rate of tax resulted in short levy of tax of Rs.1.14 crore.

After the cases were pointed out, the AA, Mandaveli assessment circle stated in November 2006 that the stock transfer was entirely of a different commodity and the reduced rate of tax allowed on inter-state sale of monofilament yarn was in order. The reply is not tenable as the notification allowed reduced rate of tax only to those dealers who had not effected any branch transfer or consignment transfer of goods during the year. This view was also upheld[19] by the Tamil Nadu Taxation Special Tribunal (TNTST),

[19] Shri Ramalinga Mills Ltd. Vs. Secretary to the Government, CT&RE Department – (2001) 122 STC P.365 (TNTST)

which held that dealers who had effected branch transfer of different commodity also are not eligible for the reduced rate of tax. Reply of the department in respect of the other case has not been received.

The matter was reported to the Government in October 2006 and February 2007; their reply has not been received (October 2007).

2.4.2.2 In nine[20] assessment circles, while finalising the assessments of 10 dealers for the years 2002-03 to 2004-05 between January 2004 and March 2006, tax was levied short due to application of incorrect rates of tax on a turnover of Rs.33.98 crore. The short levy of tax worked out to Rs.3.99 crore.

A few illustrative cases are mentioned below:

(Rupees in lakh)

Sl. No.	Assessment circle (No.of dealers)	Year of transaction (Month/ Year of assessment)	Commodity	Tax-able turn-over	Rate of tax (*per cent*)		Amount short levied
					Appli-cable	App-lied	
1	2	3	4	5	6	7	8
1	Egmore II Godown (2)	2002-03 to 2004-05 (between March 2004 and February 2006)	Sweets and savouries sold under a brand name	2,033.88	16	2	297.91
After the cases were pointed out in December 2006, the department replied that the goods were not covered by any registered trade mark and the name of the business of the dealers cannot be construed as brand name since it was not inscribed on the products. The reply is not tenable as the sweets were sold by the dealers in packages with the names inscribed within distinct emblems. Further, the sweets and savouries manufactured by the dealers are identified by the public by their specific names and the sale should, therefore, be taxed at 16 *per cent* as sale of branded sweets and savouries.							
2	Anna-salai-III (1)	2003-04 (February 2005)	Imported aircraft	576.94	20	12	48.46
After the case was pointed out in March 2006, the department revised the assessment in November 2006 and raised the additional demand of Rs.48.46 lakh; the collection particulars of which have not been received (October 2007).							

[20] Annasalai-III, Coonoor, Egmore-II, Godown, Koyambedu, Mylapore, Sowcarpet-II, Sriperumbudur and Vellore (Rural).

1	2	3	4	5	6	7	8
3	Mylapore (1)	2002-03 2003-04 (January 2004/March 2005)	Cinemato-graphic films	584.37	10	4	36.82
The case was pointed out to the department in August 2006; their reply has not been received (October 2007).							
4	Vellore (Rural) (1)	2003-04 2004-05 (September 2005)	Air conditioner parts, viz., aluminium grilles and diffusers	104.58	20	12	8.78
The case was pointed out to the department in December 2006; their reply has not been received (October 2007).							

After the cases were pointed out, the department revised the assessments in five cases between October 2006 and December 2006 and raised an additional demand of Rs.53.67 lakh; the collection particulars of which have not been received (October 2007). Reply of the department in the remaining cases has not been received (October 2007).

The matter was reported to the Government between April 2006 and May 2007; their reply has not been received (October 2007).

2.5 Erroneous treatment of contract of sale as works contract

According to Section 3(2) of the TNGST Act, tax is leviable on the sale of goods at the rates mentioned in the relevant schedules to the Act. According to Section 7 C of the Act, in respect of works contract, a dealer is given the option of paying tax at four *per cent* of the total contract value of the works executed.

The Supreme Court has held[21] that if the thing to be delivered has any individual existence before the delivery as the sole property of the party who is to deliver it, then it is a sale. If the major component of the end product is the material consumed in producing the chattel to be delivered and skill and labour are employed for converting the main components into the end products but the skill and labour are only incidentally used then the delivery of the end product by the seller to the buyer would constitute a sale.

[21] Hindustan Shipyard Ltd. Vs. State of Andhra Pradesh – 119 STC P.533 (SC)
State of Andhra Pradesh Vs. Kone Elevators – 140 STC P.22 (SC)

During the course of audit, it was noticed between July 2006 and November 2006 that AAs while finalising between December 2004 and March 2006 the assessments of 13 dealers for the years 2002-03 to 2004-05, incorrectly treated the contracts of sale as contracts for work. This resulted in short levy of tax of Rs.3.17 crore (inclusive of surcharge) as mentioned below:

(Rupees in lakh)

<table>
<tr><th rowspan="2">Sl. No.</th><th rowspan="2">Assessment circle (No. of dealers)</th><th rowspan="2">Year of transaction (Month/ Year of assessment)</th><th rowspan="2">Nature of transaction</th><th rowspan="2">Tax able turn over</th><th colspan="2">Rate of tax (per cent)</th><th rowspan="2">Amount short levied</th></tr>
<tr><th>Appli-cable</th><th>App-lied</th></tr>
<tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td></tr>
<tr><td>1</td><td>Tiruvanmiyur Velachery (6)</td><td>2003-04 2004-05 (between May 2005 and March 2006)</td><td>Contracts for supply and erection of communication towers.</td><td>996.08</td><td>12</td><td>4</td><td>83.67</td></tr>
<tr><td colspan="8">After the cases were pointed out, the AA Tiruvanmiyur assessment circle stated in December 2006 that the assessments treating the transactions as one of works contract were in order as the Supreme Court decision was known only in April 2005, after the finalisation of the assessments. The reply is not tenable as the assessments were finalised between May 2005 and March 2006, i.e. subsequent to the decision of the Supreme Court.

In Velachery, the AA did not accept the audit observation and stated that the dealer was involved in the fabrication of transmission towers according to the specifications of the customers and, therefore, it was a works contract. The reply is not tenable as the assessee had utilised his own material in the fabrication of the transmission towers, which had existed as the property of the assessee before transfer to the customers. As such it should have been treated as sale and taxed accordingly.</td></tr>
<tr><td>2</td><td>Velachery (1)</td><td>2003-04 (March 2006)</td><td>Contract for supply and erection of electronic process control system.</td><td>176.53</td><td>12</td><td>4</td><td>14.83</td></tr>
<tr><td colspan="8">After the case was pointed out, the department contended in November 2006 that the transaction was one of works contract and the material purchased by the dealers were used in execution of the works contract and since there was no manufacturing activity, there cannot be any predominant element of sale. The reply is not tenable as the predominant part of the agreement was for supply of electronic process control system and erection was only incidental to such supply. Further, the dealer had also supplied electronic process control system in intra/inter-state and such transactions were treated as sales and taxed accordingly. As such in this case also, though the dealer had supplied electronic process control system to companies on their specifications, it had its separate existence as in other cases and, therefore, it is taxable as sale.</td></tr>
</table>

1	2	3	4	5	6	7	8
3	Alwarpet Saligramam Velachery (3)	2002-03 (December 2004) 2003-04 2004-05 (October 2005/ March 2006) 2004-05 (January 2006)	Contract for design, manufacture, supply, erection and commissioning of generator sets Contract for supply and erection of vertical turbine pumps	1,619.03 68.73	16 10	4 4	208.32
The AAs in the cases relating to Alwarpet and Saligramam stated that the transactions were one of works contract, while the AA in the other case contended that the dealer had entered into an agreement for supply, installation and erection of motor pumps under the works contract and tax was levied at four *per cent* as the dealer had exercised option to pay tax under Section 7C. The reply is not tenable as the major portion of contracts involved supply of generator sets/pumps and installation was only incidental. The transactions should, therefore, have been treated as sale and taxed accordingly.							
4	Koyambedu Tiruvan-miyur (3)	2003-04 (July 2005/ November 2005) 2004-05 (February 2006)	Fabrication and supply of aluminium/ steel doors and windows.	115.74	12	4	9.72
After the cases were pointed out in July/October 2006, the AA, Koyambedu assessment circle contended that the assessments were in accordance with the clarification of the CCT issued in 2001 that erection of aluminium doors and windows fall under the category of other works contract and was liable to tax at four *per cent*. The AA, Tiruvanmiyur circle contended that the assessment was made at four *per cent* as the tribunal[22] in a similar case had held that transaction to be works contract. The decision of the Tribunal and the clarification of the CCT are not applicable as the assessees had purchased and utilised their own raw materials in the manufacture of aluminium doors and windows and which, therefore, had existed as the sole property of the assessees before delivery to the building contractors. The subsequent erection or installation was only incidental. As such the transactions had all ingredients of a sales contract and were liable to tax accordingly.							
		Total		**2,976.11**			**316.54**

The cases were reported to the Government between December 2006 and March 2007; their reply has not been received (October 2007).

[22] STA Tribunal (Main Bench) Madras in Tax appeal No.357/2000 and 469/2000 dated 30.5.2001

2.6 Cross verification of records in other departments

2.6.1 Customs Department

According to Rule 18-B of the TNGST Rules, every department of a Government liable to pay tax under the Act shall submit a quarterly return in Form A-10 before the 25th of the month succeeding the quarter showing the total and taxable turnover and the amount actually collected by it by way of tax during the quarter. The return shall be scrutinised by the concerned AA. If the rates of tax charged and the amount collected by way of tax are found to be incorrect, the AA shall intimate the correct rate applicable and the amount of tax to be collected to the department concerned to rectify the mistake and remit the correct tax due under the Act.

Scrutiny of the records in the office of the Commissioner (Sea Port) Chennai revealed that the Customs Department had not charged the correct rate of tax in respect of goods sold through retail shops and through auction sales during the period from 1 July 2002 to 31 March 2006. The short collection of tax amounted to Rs.52.56 lakh. The Customs Department had not filed the quarterly returns for several years. The short realisation of tax could have been detected much earlier had the AA of the concerned assessment circle, viz., Mannady (East) insisted upon the Customs Department to file the quarterly returns within the stipulated time.

2.6.2 Geology and Mining Department

Cross verification of the records in the offices of the Assistant Director of Geology and Mining relating to issue of permits to quarries with the connected assessment records in the Commercial Taxes Department revealed evasion of sales tax amounting to Rs.84.78 lakh (including penalty) due to suppression of sales turnover of granite as mentioned below:

(Rupees in lakh)

Sl. No.	Assessment circle (No. of dealers)	Assess-ment year/ (Month & Year of assessment)	Quantity suppressed (cu.m.)/ Value	Nature of observations	Amount of tax including penalty
1	2	3	4	5	6
1	Krishnagiri (1)	2001-02 (March 2003) 2002-03 (October 2003)	242.193/ 58.12 513.571/ 115.55	The assessee had quarried 242.193 cu.m of granite during 2001-02 and 513.571 cu.m of granite during 2002-03 but it was not disclosed in the returns and the assessments were finalised as 'O' case, i..e 'nil' assessments.	15.98 34.67

1	2	3	4	5	6
2	Pudukottai (1)	2002-03 (November 2003) 2003-04 (October 2004)	443.506/ 66.53 449.875/ 44.99	The assessee had quarried 6,961.592 cu.m of granite during the years 2002-03 and 2003-04 but the quantity that was brought to assessment during the years was 6,068.211 cu.m. The accounts filed by the assessee also disclosed the opening and closing balances as 'Nil'.	19.96 14.17
	Total				**84.78**

The cases were pointed out to the department in November 2006 and January 2007; their reply has not been received (October 2007).

The matter was reported to the Government in May 2007; their reply has not been received (October 2007).

2.7 Non/short levy of tax

2.7.1 Under the TNGST Act, every dealer who in the course of his business purchases from a registered dealer or from any other person any goods (the sale or purchase of which is liable to tax under the Act) in circumstances in which no tax is payable and despatches them to a place outside the State, except as a direct result of sale or purchase in the course of inter-state trade or commerce is liable to pay purchase tax at the prescribed rates.

As per entry 81 of the Third Schedule to the Act, chillies, *jaggery* and turmeric for sale by any dealer whose total turnover in respect of each commodity does not exceed Rs.300 crore in a year are exempt.

The TNTST has observed that the exemption was intended for dealers whose total turnover was below Rs.300 crore and the goods could not be said to be non-taxable goods and has upheld[23] the levy of purchase tax in respect of stock transfer of goods outside the State which had not suffered tax in the State.

Scrutiny of the records in six[24] assessment circles revealed that 18 dealers had sent chillies, *jaggery* and turmeric to places outside the State on consignment basis. As the goods had not suffered tax earlier in the State, purchase tax was leviable. However, the AAs while finalising the assessments of the dealers for the years 2001-02 to 2004-05 between December 2002 and March 2006 omitted to levy tax. This resulted in non-levy of purchase tax of Rs.54.69 lakh.

---

23 Ruchi Soya Industries Ltd. Vs. CTO Harbour III and another – 139 STC P.294.

24 Ariyalur, Pollachi (East) & (West), Park Road (Erode), Mettupalayam and Theni.

After the cases were pointed out between July 2004 and February 2007, the AAs stated that the commodities were exempt from the levy of tax upto Rs.300 crore and as such purchase tax was not leviable. The reply is not tenable as the exemption was admissible only if the commodities are sold by a dealer. In these cases, the goods have not been sold but have been sent outside the State on consignment basis and purchase tax is leviable. This view has also been upheld by the decision of the TNTST mentioned above.

The matter was reported to the Government in May 2007; their reply has not been received (October 2007).

2.7.2 Section 3(3) of the TNGST Act, provides for purchase of goods at concessional tax rate of three *per cent* for use in manufacture of any goods for sale, subject to the furnishing of declaration in form XVII by the purchaser. The Act further provides that the purchasing dealer shall be liable to pay the difference of tax payable on the turnover relating to sale of such goods, at the prescribed rate and three *per cent*, if he fails to make use of the goods so purchased for the purpose specified in the declaration.

The Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Chennai held[25] in October 2005 that the process of conversion of wet blue leather (semi finished leather) into finished leather does not involve manufacture and upheld the levy of differential rate of tax in respect of chemicals purchased at concessional tax rate and used in such conversion.

In four[26] assessment circles, four dealers had purchased goods, viz., chemicals/imported chemicals at concessional rate by furnishing form XVII declarations for Rs.3.43 crore and utilised the chemicals for processing of wet blue/semi finished leather into finished leather. The AAs while finalising/revising the assessments for the years 2002-03 to 2004-05 between May 2005 and March 2006 failed to levy the differential rate of tax though no manufacturing activity was undertaken by the assessees. The omission resulted in non levy of tax of Rs.30.93 lakh (inclusive of surcharge).

2.7.3 In Guindy assessment circle, a dealer had purchased corrugated boxes and stickers at concessional rate by furnishing form XVII declarations for Rs.22.96 lakh for repacking of *agarbathis* received on branch transfer from his head office. As no manufacturing activity was undertaken by the assessee, the purchase of goods at concessional rate was not in order. The AA while finalising the assessment of the dealer for the year 2003-04 in May 2005, failed to levy the differential rate of tax. The omission resulted in non-levy of tax of Rs.1.77 lakh (inclusive of surcharge).

---

25 State of Tamil Nadu Vs. Tvl. A. Ahmed & Co. – STA No.298/04 TNTSAT(AB), Chennai

26 Adyar-II, Tambaram-I & II and Tiruvanmiyur.

After the cases were pointed out between August 2006 and December 2006, the department revised the assessment in one case in August 2006 and raised an additional demand of Rs.1.77 lakh towards tax and Rs.2.66 lakh towards penalty, out of which the dealer is stated to have paid 25 *per cent* of the amount of tax and obtained stay for the remaining amount. Reply of the department in respect of the remaining cases has not been received (October 2007).

The matter was reported to the Government between December 2006 and March 2007; their reply has not been received (October 2007).

2.7.4 Section 3(4) of the TNGST Act provides that a dealer who after purchasing goods at concessional rate, does not sell the goods so manufactured, but despatches them to a place outside the State either by branch transfer or transfer to an agent or in any other manner, except as a direct result of inter-state sale or purchase, shall be liable to pay tax at one *per cent* of the value of goods so purchased.

In three[27] assessment circles, three dealers had purchased goods at concessional rate during the years 2002-03 and 2003-04 and exported/sent on stock transfer the manufactured goods outside the State. The AAs while finalising the assessments of the dealers between May 2005 and March 2006, however, omitted to consider the export sale and stock transfers for determining the liability under Section 3(4) of the Act. This resulted in non/short levy of tax of Rs.5.17 lakh.

After the cases were pointed out in November 2006, the department revised the assessment in one case and collected Rs.70,000. Reply of the department in respect of the remaining two cases has not been received (October 2007).

The cases were reported to the Government in December 2006. The Government accepted the audit observations in two cases in August 2007. Reply in respect of the remaining case has not been received (October 2007).

2.8 Incorrect computation of taxable turnover

Under the TNGST Act, tax is leviable on the sale of goods at the rates and at the points specified in the schedules to the Act. Under Section 3B of the TNGST Act, deduction towards 'labour and other like charges' not involving any transfer of property in goods is admissible to the extent of the amount calculated at the rates specified in the table mentioned in the section, if the actual amounts incurred in connection with the execution of works contract are not ascertainable from the books of accounts. The Act also provided for assessment of escaped turnover at any time within a period of five years from the date of order of the final assessment.

[27] Adyar-I, Podanur and Tiruvanmiyur.

2.8.1 In two assessment circles, incorrect computation of taxable turnover of two assessees resulted in short levy of tax of Rs.7.68 lakh as mentioned below:

(Rupees in lakh)

Sl. No.	Assessment circle (No. of dealers)	Year of transaction/ (Month and Year of assessment)	Nature of irregularity	Turn-over	Rate of tax (*per cent*)	Amount of short levy
1	Koyambedu (1)	2003-04 (June 2005)	Supply of stone ballast to Railways was omitted to be included in the turnover.	110.67	4	4.65
After the case was pointed out in October 2006, the AA issued pre revision notice to the assessee. Further report has not been received (October 2007).						
2	Tiruvanmiyur (1)	2003-04 (March 2006)	Out of the first sale turnover of DEPB[28] licence amounting to Rs.2.18 crore, Rs.72.05 lakh shown as 'claims receivable' was omitted to be assessed to tax.	72.05	4	3.03
After the case was pointed out in August 2006, the AA issued pre revision notice to the assessee. Further report has not been received (October 2007).						
	Total			182.72		7.68

The matter was reported to the Government between December 2006 and March 2007; their reply has not been received (October 2007).

2.8.2 In Fast Track Assessment Circle-III, Chennai, while finalising the assessment of a dealer for the year 1996-97 in February 2000, deduction towards labour in respect of works contract executed by an assessee was allowed to the extent of Rs.68.31 lakh, though separate accounts were not maintained indicating the actual labour charges incurred by the assessee. The admissible amount of deduction towards labour charges calculated at the rates specified in the Section amounted to Rs.30.85 lakh. The excess allowance of deduction resulted in short levy of tax of Rs.5.80 lakh.

After the case was pointed out in December 2003, the AA revised the assessment in January 2006 and raised an additional demand of Rs.5.80 lakh. Collection particulars have not been received (October 2007).

[28] Duty entitlement pass book.

2.9 Affording of excess credit

According to the Commercial Taxes Manual, assessment registers, also called 'D2' ledgers are to be maintained for each year in the assessment circles to show the tax paid by the assessees. The ledger shows the details of the taxable turnover, tax due thereon, tax paid, etc.

A scrutiny of the registers in Tuticorin-III and Triplicane-I assessment circles, revealed that in one case as against the amount of Rs.19.65 lakh paid by the assessee, credit was afforded for Rs.26.43 lakh; while in the other case, Rs.1.68 lakh due on account of interest though not paid was incorrectly credited to the account of the dealer. This resulted in affording of excess credit of Rs.8.46 lakh.

After the cases were pointed out in July 2006/August 2006, the AA in one case accepted the audit observation, but stated that a legal dispute was pending before the Madras High Court regarding the assessment and the excess credit would be adjusted after disposal of the dispute. Reply of the department in respect of the other case has not been received (October 2007).

The matter was reported to the Government in March 2007; their reply has not been received (October 2007).

2.10 Short levy of resale tax

Section 3-H of the TNGST Act, provides for the levy of resale tax at one *per cent* on the turnover of resale of goods specified in the first schedule, at a point other than the point of levy specified therein in respect of every dealer liable to pay tax under Section 3(2) and whose total turnover was not less than Rs.10 lakh for the year.

In Anna Salai II assessment circle, while finalising the assessments of a dealer for the years 2002-03 to 2004-05 between June 2005 and January 2006, the AA levied resale tax on the amount of Rs.39.46 crore financed by the assessee on resale of machinery and motor vehicles on hire purchase basis but omitted to levy such tax on the amount of Rs.6.88 crore initially paid by the purchasers. This resulted in short levy of resale tax of Rs.6.88 lakh.

The case was reported to the department in January 2007 and to the Government in March 2007; their replies have not been received (October 2007).

2.11 Non/short levy of interest

According to sub section 2 of Section 13 of the TNGST Act, the tax shall become due without any notice of demand to the dealer on the date of receipt of the return or on the last due date prescribed, whichever is later. According to Section 24(3) of the TNGST Act, on any amount remaining unpaid after

the date specified for its payment, the dealer or person shall pay, in addition to the tax amount due, interest at two *per cent* per month of such amount, for the entire period of default.

In six[29] assessment circles, tax of Rs.1.01 crore relating to assessment years 1987-88, 1991-92, 1993-94, 1994-95 and 2002-03 was paid belatedly by six dealers between April 2000 and January 2006; the delays ranging from 1 month and 10 days to 164 months and 7 days. As against the interest of Rs.31.73 lakh leviable for such belated payment of tax, the AAs had levied interest of Rs.51,000 in only one case. This resulted in non/short levy of interest of Rs.31.22 lakh.

After the cases were pointed out between November 2004 and September 2006, the department levied interest of Rs.23.98 lakh in three cases in June 2005/September 2006; of which Rs.23.59 lakh was either collected or adjusted from the excess tax available at the credit of the dealer. Report on recovery of the balance amount has not been received (October 2007). The AA in one case involving interest of Rs.3.83 lakh stated that delay in payment was due to dishonouring of cheques and was beyond the control of assessee and it did not appear a valid decision to levy interest. The reply is not tenable as the assessee was liable to pay interest on the unpaid amount under the provisions of the Act and the AA has no discretion in this regard. Reply of the department in respect of the remaining cases has not been received (October 2007).

The matter was reported to the Government between December 2006 and March 2007; their reply has not been received (October 2007).

[29] Esplanade-I, FTAC-II & IV Chennai, Sivakasi-IV, Sriperumbudur and T.Nagar (East).

RAJ BHAVAN LIBRARY CHENNAI

CHAPTER III

STATE EXCISE

8374

3.1 Results of Audit

Test check of the records of the departmental offices during the period from April 2006 to March 2007 revealed non/short collection of licence fee, privilege fee, penalty and interest etc., amounting to Rs.70.85 crore in 16 cases as mentioned below:

350.7232 R P07

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non/short collection of penalty and interest	2	64.31
2	Non/short collection of licence fee, privilege fee	7	6.13
3	Others	7	0.41
	Total	**16**	**70.85**

During the year 2006-07, the department accepted non/short collection of fee, penalty and interest in respect of 15 cases involving Rs.69.93 crore, of which, six cases amounting to Rs.69.86 crore were pointed out during 2006-07 and the rest in the earlier years. Out of the above, Rs.55.39 crore has been recovered.

After the issue of draft paragraph, the department recovered Rs.2.73 crore in one case during the year 2006-07.

A few illustrative cases involving Rs.67.63 crore are mentioned in the following paragraphs:

3.2 Non-raising of demand for shortfall in minimum off-take of liquor

As per the Tamil Nadu Liquor (Retail Vending) Rules, 1989 and terms and conditions of the licence, a licensee permitted to sell liquor should lift the minimum off-take of liquor fixed for the shop by the licensing authority. In case, the licensee failed to lift the minimum off-take so fixed consecutively for two months, he was liable to pay a penalty proportionate to the loss of revenue sustained by the Government due to such non-lifting. A number of licensees filed writ petitions in 2002 against this penalty provision and the High Court of Madras in November 2003 held that the petitioners were liable to pay penalty of 20 *per cent* of the value of the deficit in the minimum off-take for the first violation or 30 *per cent* of the value of the deficit in the minimum off-take for the second violation and directed the Government to rework the penalty accordingly within two months from the date of receipt of the Court order. The copy of the judgement was stated to have been received by the department in June 2004. Even thereafter penalty was not levied. After the non-levy was pointed by audit in September 2004, the department worked out the total penalty leviable as Rs.64.32 crore only in June 2006 for the years 2001-02 and 2002-03. However, the demand has not been raised even after three years from the date of receipt of court order resulting in non-realisation of the revenue.

After the case was again pointed out in November 2006, the Government issued an order in February 2007 to recover the penalty partly by forfeiture of deposit of Rs.52.59 crore made by the licensees. For the balance amount of Rs.11.73 crore to be recovered, the Government directed the Commissioner to invoke the provisions of the Revenue Recovery Act. Report on further action taken has not been received (October 2007).

3.3 Non-levy of import fee on the stocks of concentrates imported

Rule 22 of the Tamil Nadu Indian Made Foreign Spirit (Manufacture) Rule 1981 read with G.O.Ms.112 P&E dated 3 June 2003 provides for the levy of import fee of Rs.5 per bulk litre on the stocks of concentrates imported for the manufacture of Indian Made Foreign Spirit (IMFS) from June 2003. However, the term 'concentrates' has not been defined in the rules.

It was noticed in six IMFS units that though 37.75 lakh bulk litres of various types of special spirits were imported and used in the manufacture of IMFS during 2003-04 to 2005-06, the import fee of Rs.1.89 crore was not levied. As these spirits were of higher strength and added for giving taste and aroma, they were to be treated as concentrates and import fee charged accordingly.

After the case was pointed out in November 2006, the department/ Government replied in March/September 2007 that the matter would be consulted with a technical committee to decide on whether concentrates and special spirits were one and the same.

3.4 Non-realisation of licence fee

As per the Tamil Nadu Rectified Spirit Rules, 2000, RL4 licence should be obtained by those manufacturers who possess and use rectified spirit (RS) for non-potable purpose (i.e., for the production of denatured spirit which in turn is used for any other end product). The licence fee is Rs.5 lakh if the capacity exceeds 10 lakh litres per annum.

It was noticed that two[30] distilleries had not obtained the said licence eventhough they used RS for non-potable purpose. This resulted in loss of revenue of Rs.50 lakh during the period from 2001-02 to 2005-06.

After the case was pointed out, the Government replied in September 2007 that RL4 licences were not required as the distilleries were not using the spirit manufactured by them. The reply is not tenable since the records revealed that both the distilleries had used the spirit for production of end products (like poly vinyl chloride) and were, therefore, required to obtain RL4 licence. Further report has not been received (October 2007).

3.5 Non-levy of special import permit licence fee on direct import of IMFS by clubs and star hotels

The Government in their order issued in October 2002 directed the department to send a proposal for amendment of the rule for imposing 'special import permit licence fee' (SIPLF) from October 2002 on clubs and star hotels equal to the profit margin of M/s. Tamil Nadu State Marketing Corporation Ltd. (TASMAC) in respect of IMFS/beer imported directly by the clubs and star hotels.

It was noticed in the office of the Commissioner of Prohibition and Excise, Chennai that no action had been taken by the department to amend the rules so as to include the above mentioned levy. As a result, eventhough a total of 20,431 cases of IMFS and 2,597 cases of beer were imported during the period from 2003-04 to 2005-06, by clubs and star hotels, special import permit licence fee of Rs.92.44 lakh[31] was not levied.

---

[30] M/s Chemplast Sanmar Limited and M/s.Trichy Distilleries Limited.

[31] Calculation is based on the profit of 20 *per cent* on IMFL and 40 *per cent* on beer.

After the case was pointed out in November 2006, the department stated in March 2007 that only recommendations had been made in the G.O. issued in October 2002 and further stated that in the GO No.112 dated 3 June 2003, the Government had ordered specific rates of import licence fee on IMFS. The reply is not tenable as in the G.O. issued in October 2002, the Government had categorically accepted the recommendations of a committee and directed the department to take necessary action to implement the recommendations. Further, the GO dated 3 June 2003 cited by the department pertains to import licence fee generally leviable in case of import of IMFS by everybody including TASMAC, whereas the SIPLF is for clubs and hotels alone. Thus due to inaction on the part of the department, special import permit licence fee was not levied on the clubs and star hotels importing IMFS and beer. Further reply has not been received (October 2007).

The Government to whom the matter was reported in May 2007, replied (September 2007) that the matter was under consideration. Further report has not been received (October 2007).

CHAPTER IV

STAMP DUTY AND REGISTRATION FEES

4.1 Results of audit

Test check of the records of the departmental offices during the period from April 2006 to March 2007 revealed undervaluation, misclassification and other deficiencies amounting to Rs.78.41 crore in 2,905 cases as mentioned below:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1	Excess/incorrect allocation of transfer duty surcharge	1,574	6.94
2	Misclassification	51	2.58
3	Undervaluation	43	2.15
4	Others	1,237	66.74
	Total	**2,905**	**78.41**

During the year 2006-07, the department accepted under assessment and other deficiencies, amounting to Rs.13.17 crore in 1,925 cases, of which, Rs.8.03 crore involved in 1,776 cases were pointed out during 2006-07 and the rest in the earlier years. Of these, the department recovered Rs.3.65 crore.

A few illustrative cases involving financial effect of Rs.8.58 crore are mentioned in the following paragraphs:

4.2 Incorrect/excess allocation of surcharge to local bodies

As per the provisions of the Tamil Nadu Panchayat Act, 1994, a duty on transfer of property is to be levied in the form of surcharge (transfer duty surcharge) along with stamp duty imposed under the Indian Stamp Act, on instruments of sale, exchange, gift etc., of immovable property. The rate of surcharge was five *per cent* upto 20 November 2003 and two *per cent* thereafter on the market value of the property transferred. However, in respect of instruments relating to purchase of land and building by information and technology (IT) companies, surcharge is leviable at the rate of one *per cent*. The surcharge so collected is to be allocated to local bodies.

4.2.1 It was noticed in 84 registering offices in 2006-07 that in respect of 1,571 documents dealing with transfer of immovable property, transfer duty surcharge (TDS) of Rs.4.43 crore was erroneously allocated or allowed in excess to the local bodies.

4.2.2 Test check of the records in the offices of the District Registrar, Chennai-Central and Joint-II Sub Registrar, Thousand Lights revealed that as per surcharge register maintained by the department for transfer of surcharge to the local bodies, the actual amount required to be allocated to the local bodies amounted to Rs.7.43 crore. Against this, Rs.8.48 crore was incorrectly allocated resulting in excess allocation of TDS of Rs.1.05 crore for the quarter ending March 2003 and June 2006 respectively.

4.2.3 Test check of the records in the office of the Joint-II Sub Registrar, Thousand Lights revealed that in respect of one document, TDS was allocated to the local bodies at the rate of two *per cent* as against the surcharge actually collected at one *per cent* on account of concession granted under the I.T. policy of the Government. This resulted in excess allocation of Rs.1.46 crore.

The overall excess allocation in the cases mentioned above aggregated to Rs.6.94 crore.

After the cases were pointed out between April 2006 and March 2007, the department replied in August 2006 and March 2007 that Rs.99.64 lakh pertaining to 162 cases had been adjusted in the subsequent allocation made to the local bodies. Further report in respect of the remaining cases has not been received (October 2007).

The matter was reported to the Government in April/May 2007; their reply has not been received (October 2007).

4.3 Short levy of stamp duty and registration fees due to under valuation of property

As per Article 23 of Schedule I to the Indian Stamp (IS) Act, 1899, in the case of conveyance of an immovable property, stamp duty shall be charged at the rate of eight *per cent* (including surcharge) of the market value of the property. If the market value of the property is not truly set forth in the instrument, it may be referred to the Collector under Section 47(A) (3) of the Act for determination of the market value of the property. In case the order passed by the Collector is prejudicial to the revenue of the State, the chief controlling revenue authority (CCRA) may, after examining such order, initiate proceedings under Section 47(A)(6) of the Act to revise, modify or set aside such order and pass necessary order thereon as he thinks fit.

4.3.1 Test check of the records in the office of the Sub Registry, Virugambakkam in October 2000 revealed that 1.56 lakh square feet of land was conveyed in December 1999 through 27 documents at the rate of Rs.86 per square foot. As the instruments were undervalued, they were referred to

the Special Deputy Collector (SDC) (Stamps), Chennai for determination of the correct value. The SDC (Stamps), Chennai adopted (April 2000) the rate of Rs.155 per square foot holding that the property was situated in a by-lane, even though it was actually situated on the main road for which the guideline rate was Rs.1,105 per square foot. Though, it was a fit case for reference to CCRA for revision and determination of correct market value it was not referred to the CCRA.

After the cases were pointed out in December 2000, the department stated in August 2006 that the cases were referred to CCRA who fixed the market value of the property at Rs.650 per square foot. At the rate fixed by the CCRA, the difference in stamp duty and registration fees worked out to Rs.1.21 crore. The details of collection have not been received (October 2007).

The matter was reported to the Government in April 2007. The Government accepted the audit observation in September 2007.

4.3.2 Test check of the records in the offices of District Registry Tiruvannamalai and Sub Registry, Ambattur between April and July 2004, revealed that land measuring 45,097 sq. ft was conveyed in November 1998 and November 2003 through two documents for a consideration of Rs.16 lakh. As the instruments were undervalued, they were referred to the SDC (Stamps) for determination of the correct value. The respective SDC (Stamps) fixed (March 2003 and February 2004) the value as Rs.46.56 lakh adopting the rate at Rs.135 per sq.ft as against the market rate of Rs.622 per sq.ft in one document and Rs.80 per sq.ft as against the market rate of Rs.210 per sq.ft in another document. Eventhough it was a fit case for reference to CCRA for revision and determination of the correct market value, this was not done. This resulted in short realisation of Rs.16.74 lakh.

After the cases were pointed out in June/August 2004, the department accepted in January/February 2007 the audit observation and directed the purchasers to pay the deficit stamp duty and registration fees of Rs.16.74 lakh. Collection particulars have not been received (October 2007).

4.3.3 Test check of the records in the office of the Sub Registry, Tirupattur in March 2005 revealed that 79,700 sq. ft. of land was conveyed in February 2004 through two separate documents. The market value of the said lands though was Rs.135 per sq. ft. the rate adopted in the instruments was Rs.25 per sq. ft. only. The RO did not refer the document to the Collector. This resulted in undervaluation of property and consequent short levy of stamp duty and registration fees of Rs.7.89 lakh.

After the case was pointed out in March 2005, the department accepted in April 2006 the audit observation and raised the demand. The collection particulars have not been received (October 2007).

After the cases were reported to the Government between January and April 2007; it accepted the audit observation in April 2007.

4.4 Incorrect exemption of stamp duty

4.4.1 In exercise of the powers conferred under Section 9 of the IS Act, the Government by a notification issued on 27 July 2004 reduced 50 *per cent* of the duty chargeable under the IS Act, in respect of the instruments relating to purchase of land or land and building by Information Technology (IT) companies/industries subject to certain conditions which, *inter alia,* included that the reduction would be applicable only for the first transaction of the IT company.

Test check of the records in the office of the Sub Registrar, Neelankarai in September 2006 revealed that through a sale deed, land measuring 46,495 sq.ft was conveyed in December 2005 in favour of an IT company for a consideration of Rs.2.25 crore. As against the correct amount of stamp duty and registration fees of Rs.20.25 lakh leviable, only 50 *per cent* thereof was levied invoking the Government notification mentioned above. But the company had already availed of the said concession in respect of an earlier purchase made in 2004. This being the second transaction, the 50 *per cent* exemption allowed was not admissible. This resulted in short collection of stamp duty and registration fees of Rs.10.13 lakh.

The matter was reported to the department/Government in January 2007. The Government accepted in May 2007 the audit observation and stated that action would be initiated to recover the amount. Report on recovery has not been received (October 2007).

4.4.2 As per the notification dated 29 June 1966, stamp duty is exempted in respect of instruments executed, *inter alia*, by a member in favour of the society registered under the provisions of Tamil Nadu Co-operative Societies Act, 1961. It also provides that in the case of a sale deed executed in favour of any such society, the remission shall not operate unless the vendor has been a member of such society continuously for a period of not less than two years immediately before the date of execution of the sale deed.

Test check of the records in the office of the Sub Registrar, Tiruporur in January 2006 revealed that lands valued as Rs.66.23 lakh were conveyed through three sale deeds between January 2005 and March 2005 by a firm in favour of a co-operative housing society. Exemption from payment of stamp duty of Rs.8.61 lakh was wrongly allowed eventhough the firm was not a member of the society. This resulted in short realisation of stamp duty of Rs.8.61 lakh.

After the case was reported to the Government in February 2007, the Government accepted (May 2007) the audit observation and stated that action under section 33 A would be instituted for recovering the amount. Further report on action taken has not been received (October 2007).

CHAPTER V

OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records of the departmental offices during the period from April 2006 to March 2007 revealed non/short levy of local cess and surcharge, water cess and betterment contribution, penalty/interest, short recovery of rent in respect of lands assigned, alienated or evicted, non/short collection of tax, fees, penalty, non/short levy of urban land tax, non-levy/collection of inspection fees, testing fees, fine and penalty, electricity duty/tax/interest and other irregularities amounting to Rs.61.29 crore in 272 cases as mentioned below.

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
	Taxes on vehicles		
1	**Computerisation of the Transport Department (A review)**	1	---
2	Non/short collection of tax and other observations	91	3.91
3	Non/short collection of penalty	11	0.03
4	Non/short collection of fees	3	0.01
5	Others	2	0.04
	Total	**108**	**3.99**
	Land Revenue		
1	Non-levy of penalty/interest	18	1.46
2	Non-levy of water cess and betterment contribution	4	1.20
3	Non/short levy of local cess and local cess surcharge	5	0.84
4	Short recovery of rent in respect of lands assigned, alienated or evicted	4	0.73
5	Other audit observations	105	47.82
	Total	**136**	**52.05**

	Urban Land Tax		
1	Non/short levy of urban land tax	12	0.54
	Total	**12**	**0.54**
	Luxury Tax		
1	Incorrect exemption and other audit observations	3	0.02
	Total	**3**	**0.02**
	Electricity Duty		
1	Non-levy/collection of inspection fees, testing fees, fine and penalty	3	0.07
2	Non-levy/collection of electricity duty, electricity tax and additional tax	5	4.57
3	Non-renewal/collection of licence fees under Lift Act, 1997 and interest for belated payment of electricity tax.	3	0.03
	Total	**11**	**4.67**
	Agricultural Income Tax		
1	Non-levy of interest and penalty	2	0.02
	Total	**2**	**0.02**
	Grand Total	**272**	**61.29**

During the year 2006-07, the departments accepted non-assessment, non-collection of tax, fees and other deficiencies of Rs.7.00 crore in 217 cases out of which, Rs.1.12 crore involved in 25 cases was pointed out during the year and the rest in earlier years. Of this, Rs.4.42 crore was collected by the department.

A few illustrative cases and a review of **Computerisation of the Transport Department** involving a financial effect of Rs.74.55 lakh are mentioned in the following paragraphs:

TAXES ON VEHICLES

5.2 Computerisation of the Transport Department

Highlights

- Initial adoption of the software of a private firm instead of the freely available NIC software resulted in an unproductive expenditure of Rs.80.63 lakh

(Paragraph 5.2.6.1)

- Computerisation started as early as in 1998 is yet to be completed and put to use in full form despite an expenditure of Rs.14 crore.

(Paragraph 5.2.6.2)

- Non-linking of the offices with a central database resulted in failure to achieve the desired objectives and wastage of resources in terms of manpower and storage space.

(Paragraph 5.2.6.3)

- The software lacked built in alert mechanism to ensure revenue collection and adherence to mandatory requirements.

(Paragraph 5.2.7.5)

- Lack of input controls resulted in duplication of chassis number and engine number of the vehicles and capturing of irrelevant dates and incorrect values for the key fields made the data unreliable.

(Paragraph 5.2.8)

5.2.1 Introduction

The Transport Department of the Government of Tamil Nadu is administering the provisions of the Motor Vehicles Act, 1988; Central Motor Vehicles Rules, 1989; Tamil Nadu Motor Vehicles Rules, 1989; Tamil Nadu Motor Vehicles Taxation Act, 1974; and Tamil Nadu Motor Vehicles Taxation Rules, 1974. The main functions of the department are registration of motor vehicles, grant of permits to transport vehicles, collection of tax and fees, issue of driving and conductor licenses, inspection of accident vehicles and control of pollution caused by emission of the motor vehicles.

An IT audit of the computerisation of the Transport Department was conducted. It revealed a number of system and other deficiencies which are discussed in the succeeding paragraphs.

5.2.2 Organisational set-up

The Transport Department (hereinafter called the department) is headed by the Transport Commissioner and functions under the administrative control of the Home Department. The Transport Commissioner also functions as the State Transport Authority (STA). There are seven zonal offices, consisting of 53 regional transport offices, 40 unit offices and 19 check posts in the state under the direct supervision of regional transport officers.

5.2.3 Computerisation

Computerisation of the department covered the issue of driving licences, registration certificates and permits; demand and collection of motor vehicle taxes; and exchange of information between the regional transport offices (RTO) and STA through the electronic media, with the objective of faster, efficient and hassle free counter service; reducing the waiting time for the public; transmission of the data generated in the RTOs to the STA for better control and cross verification of facts; elimination of the bogus licenses and certificates and generation of quick reports on tax matters.

The project 'Driving Licences and Registration of Vehicles and Areas (DLRVAS)' and back data entry of the registration and driving license records for the period from 1983 were entrusted to M/s.Tata Infotech (1998), in all the offices for completion within a time frame of 18 months. This was commissioned in 17 offices as Phase-I (July 2001). Due to the reluctance on the part of the firm to replicate the software in the other locations, the department subsequently decided (July 2002) to adopt the software named 'VAHAN' and 'SARATHY' designed by National Informatics Centre (on client server architecture with SQL server as back-end and Visual Basic as front-end), in the remaining 76 locations and also to switchover to the NIC software in the 17 locations where the Tata infotech's software was implemented.

5.2.4 Audit objectives

The audit objectives were to ascertain whether :

- the overall scheme of computerisation was carried out as per the departmental plan;
- the software covered all the intended functions, was foolproof and free from errors;
- the department could achieve the projected objectives of computerisation; and
- security mechanism had been built into the system to prevent any unauthorised access and manipulation of the data/system.

5.2.5 Audit methodology and coverage

During the IT audit of the system, the following were scrutinised.

- manual records which are still in vogue at the RTOs;
- scheme of codification and master data in the system;
- original source documents; and
- general information available.

The selection of the units for the purpose of this audit was restricted to five[32] out of the 40 RTOs as implementation of the software in the remaining offices were in the initial stage of computerisation and no computerised data was available for analysis. The downloaded transaction data related to the offices where the software had been under implementation and the application software were examined for correctness, completeness and adequacy of controls. The outputs generated by the system and their uses were also examined.

Audit findings

System deficiencies

5.2.6 Planning and implementation

The development of a system requires adoption of a well established life cycle which includes a conceptual plan, detailed system study, formulation of system requirement specifications as well as user requirement specifications and a system design document.

5.2.6.1 Planning

The computerisation efforts were initiated in the Transport Department as early as in 1997. National Informatics Centre (NIC) stated in October 1997 that standard software for the Transport Department developed by them would be supplied to the Government of Tamil Nadu free of cost. NIC clearly indicated that it was not appropriate to deviate from their standard software by involving private software companies for development of fresh software, when the software required was already available in a standardised form. This advice of NIC was, however, ignored by the department for no recorded reasons and the work of computerisation was entrusted to Tata Infotech in June 1998.

Tata Infotech completed the project during 2001 against the target date of December 1999 in 17 out of the 93 locations only. In July 2002, the department decided to switch over to the NIC software for the remaining 76 offices in Phase-II and also to extend it to the 17 Phase-I offices for

---

32 Chengalpattu, Chennai North, Erode, Madurai (South) and Redhills

uniformity in software and inability of Tata infotech to migrate their database into the All India Common Database. As a result, Rs.1.27 crore spent on Phase-I of the project towards software development by Tata Infotech (Rs.80.63 lakh) and purchase of Oracle Enterprise Server Edition 8 and Windows NT (Rs.46.07 lakh) became largely unproductive.

5.2.6.2 Delay in implementation of the NIC software

The Government sanctioned Rs.17 crore during August 2004, and ordered the Transport Commissioner to ensure implementation of the project within a specified time frame in view of the project being a major e-governance initiative. But no time frame was fixed and adopted by the department for execution of the project. The department could partially implement the scheme in all the locations only in March 2007, though the pilot site became functional in 2002. Out of thirteen functions committed and covered under the scheme of computerisation as per the proposal submitted by NIC to the department, four[33] functions were covered only partially and four[34] functions were not covered at all. Even in the case of functions covered either fully or partially, there was no uniformity in implementation of the package in all the locations. As of March 2007, Rs.14 crore has been spent on the project towards procurement of hardware, system software, site preparation, etc.

5.2.6.3 Non-linking of the offices with STA

Though creation of a central database was envisaged at the initial planning stage itself, there was no time frame or specific plan to achieve it. **The project has been implemented as stand alone package in the 93 sites without linking them to a common database**. As a result, data relating to a vehicle has been entered in more than one local database, when subsequent tax payments were made in any of the offices other than the one in which the vehicle was registered.

Test check in five[35] offices revealed that only in 19,724 out of 1,20,441 cases, master records pertaining to the vehicles registered in the other offices were captured. **In the absence of a centralised database and connectivity linking all the sites, the intended objectives of the computerisation such as online transmission of data to the STA, elimination of bogus licenses, cross verifications etc, could not be achieved in full.**

The department in its reply (September 2007) stated that it had taken measures to establish the connectivity of all unit offices with the STA.

---

[33] Vehicle Registration, Issue of Permits, Enforcement and Taxation, Fee/Penalty Monitoring.

[34] MIS, Daily update of STA Database, MIS for STA and Office Automation.

[35] Chengalpattu, Chennai North, Erode, Madurai (South) and Red Hills.

5.2.6.4 Non-computerisation of the check posts

Check posts are the important enforcement points where vehicles are checked for possession of valid permit and payment of tax. Overloading of goods in the goods vehicle is also checked at the check posts. The department had an objective of computerisation of the check posts during the earlier DLRVAS project stage (1998) itself and this was also one of the functions covered under the domain of computerisation as per the proposal submitted by NIC.

As per Rule 206 of the Tamil Nadu Motor Vehicle Rules, the compounding fee for overloaded vehicle shall be collected within 15 days from the date of determination and the rule further stipulates cancellation or suspension of the permit on expiry of this mandatory period.

Due to non-computerisation of the check posts, the list of overloaded vehicles detected at the check posts continued to be communicated to the respective RTOs manually and then the information is fed into the computer system at the RTOs. Test check in the unit office at Chengalpattu revealed that due to delay in communication of the information from the check post to the RTO, the compounding fees of Rs.1.40 lakh was collected belatedly ranging from 1 month to 13 months in 35 cases and in 11 cases collection of Rs.52,000 was pending even after six months (June 2007).

After this was pointed out, the department in its reply (September 2007) stated that initial measures had been taken for computerisation of the check posts.

5.2.6.5 Non-compliance with the password policy

Though the department had formulated password policy of changing the password periodically, on verification of the database, it was noticed that the same password was being used by the Administrators of three[36] offices and no change of password was effected since the day of inception of the software. This indicates that the department failed to comply with the policy.

5.2.6.6 Absence of change management

It was noticed on verification of the tax slab database in three[37] offices for the stage carriage vehicles (First Schedule-2-III-(b)), that the changed slab rate for payment of tax effective from 1 April 2003 was not incorporated in the programme, despite the Government notification for changing the rate. This indicated that the controls during the change management procedures were inadequate. Though there was no short collection of tax due to manual intervention, there was a risk of loss of revenue.

[36] Chengalpattu Unit Office, Erode RTO and Madurai (South) RTO

[37] Chengalpattu Unit Office, Erode RTO and Madurai (South) RTO

5.2.7 Application design deficiencies

Deficiencies in the software leading to manual interventions and bypassing the system were noticed in the following cases.

5.2.7.1 Category of vehicle and mode of payment

Though road tax for the commercial vehicles are payable quarterly, half-yearly or annually, test check of data in three[38] offices revealed that in 38 out of 16,117 cases, the taxes were collected using the one time tax payment mode. Though the tax was collected correctly due to manual intervention, the taxation period was shown in most of the cases as 15 years instead of the appropriate periodicity mentioned above. This deficiency in the software to restrict the period of payment of tax on the basis of the category of the vehicle posed a risk of omission to collect the subsequent tax for a period of 15 years apart from the unreliability of data.

The department replied (September 2007) that the taxes for commercial vehicles were collected for the appropriate period. The reply is not tenable as it did not address the issue of the software deficiency pointed out by audit, rather, confirmed the manual intervention being resorted by the department to ensure the periodic collection of taxes from the commercial vehicles.

5.2.7.2 Allotment of advance numbers

Allotment of advance registration number for a vehicle is made on request from a vehicle owner for a specific number either in the current series or beyond current series. As per the G.O. Ms. No.153 dated 25/2/2002, an amount of Rs.8,000 has to be collected in the case of imported cars and cars made in India whose cost exceeds Rs.4.00 lakh and Rs.2,000 has to be collected in the case of the motor cycle having cubic capacity exceeding 50 CC for allotment of advance numbers within 1,000 numbers from the last number assigned, whereas an amount of Rs.25,000 should be collected for allotment of advance number "from the 5th series and beyond" including the current series.

The computer system does not provide for automatic calculation of the advance number fee, though the required parameters for allotting the advance number were captured in the system. Instead, the software had provision to allow the users to select the category to levy the fees. Such manual interventions resulted in short collection of fees of Rs.12 lakh in 123 cases due to wrong selection of the category. The department in its reply (September 2007) stated that such provision was available in the software. However, the department did not comment on the absence of the provision for the calculation of advance number fee by the system based on the parameters, thus, restricting any manual interventions.

---

[38] Chengalpattu, Unit Office, Erode RTO and Madurai (South) RTO

5.2.7.3 Non-collection of surcharge

The software provided for automatic calculation of road taxes, surcharge, etc., based on the key parameters. **However, it also had the provision for manual intervention by the users to change the amount of tax, previous adjustment, surcharge, rebate and fine including the period of tax through a different mode.** The design deficiency of allowing manual intervention for entering the surcharge through the mode resulted in omission to collect surcharge in 50 cases relating to stage carriage vehicles at the RTO Madurai (South).

After the cases were pointed out, the department accepted the audit comment and replied (September 2007) that the application had been suitably modified to collect the surcharge.

5.2.7.4 Non-integration of blacklisted module and collection module

The lists containing the details of compounding fee levied for the overloaded vehicles are communicated from the checkposts to the respective RTO manually and the information were fed into the system in the "Blacklisted vehicle module" by the RTO/MVI to block the vehicle from doing any further transaction before remitting the compounding fee. The collection of the compounding fee is made through the collection module in the counter computer. **However, it was found that there was no integration between these two modules.**

During the data analysis in the Unit office, Chengalpattu, it was noticed that in the 'Blacklisted vehicle module', five cases were erroneously closed without ensuring collection of the entire compounding fee. In three cases, no entry was made in the 'Blacklisted vehicle module' regarding the quantum of the compounding fee. Hence, the correctness of collection of the compounding fee could not be verified.

Such absence of automatic link between the modules posed the risk of release of the blacklisted vehicles without ensuring collection of the fee.

5.2.7.5 Absence of built in alert mechanism

In the computerised system, it was necessary to provide alert mechanisms to monitor collection of the dues and mandatory checks. **Non-provision of built in alert mechanism could result in non-collection of revenue and non-adherence of mandatory requirements such as insurance coverage, pollution check etc as mentioned below.**

- Though there was a provision in the system to collect an amount of Rs.500 per annum as green tax for the transport vehicle on expiry of seven years from the date of its registration, it did not have built in alert mechanism either immediately on completion of the mandatory period or at the time when the owner made any other subsequent payment. This resulted in non-collection of green tax in respect of 389 out of 3,530 vehicles, amounting to Rs.1.87 lakh.

- Though the software provided for a check at the time of issue of permit as to whether the pollution check for the vehicle had been done or not, it did not provide a built in alert mechanism for pollution check during the subsequent transactions of the vehicle.
- Though the software made it compulsory to capture the information pertaining to the insurance details at the time of initial registration of the vehicle, there is no provision in the software to ensure the insurance coverage at the time of each and every subsequent transaction of the vehicle. In the absence of such built in alert, in four[39] offices it was found that in 1,122 cases the software allowed further processing even after the expiry of the validity period of insurance of the vehicles.

After the cases were pointed out, the department replied (September 2007) that the software had been modified to enforce insurance cover at the time of each transaction.

The Government may consider rectifying the design deficiencies in the software. Built in alert mechanism may be provided for capturing the information like green tax, pollution check, insurance coverage, etc.

5.2.8 Deficiencies in input control

Input controls ensure that the data received for processing is authentic, complete, accurate, properly authorised and is entered accurately and without duplication. **The computerised system did not have sufficient input controls to ensure completeness and correctness of data fed into the system as illustrated hereunder.**

5.2.8.1 Incorrect coding

The vehicles were codified in the database as per their category for the purpose of linking with other critical parameters such as tax rate, granting of permits etc. It was observed that, due to lack of input control, different codes i.e., 47 and 210 were allotted for the category "Vehicle fitted with Compressor". Similar duplication was also seen in the case of 49 and 214 for "Vehicle fitted with Drilling Rigs".

After the cases were pointed out by audit, the department replied (September 2007) that the deficiencies had been rectified.

[39] Chengalpattu Unit Office, Erode RTO, Madurai (South) RTO and Redhills Unit Office

5.2.8.2 Duplicate and dummy values in key fields

The chassis number and engine number are the unique identification marks of a vehicle which are essential for the purpose of its registration. During analysis of the data in four[40] offices, it was noticed that in 522 cases there were duplicate entries of engine numbers and chassis numbers. These fields also contained dummy values like 'XXXX', 'NA', 'NIL' etc indicating that the input validation checks were not built in the system. This led to deficient data in the database.

The department replied (September 2007) that special characters were not allowed in the chassis number. The reply thus did not address the issue of duplicate and dummy values being allowed in the key fields, as pointed by audit.

5.2.8.3 Tax period with irrelevant dates

The database contained information of 'date from' and 'date upto' for which the tax had been collected for the purpose of indication of the period for which the tax payment was made.

During test check of the data in three[41] offices, it was noticed that in 271 cases the 'date from' and 'date upto' information contained irrelevant dates indicating deficient input controls posing risks of omission of tax collection in addition to generation of wrong MIS reports.

After the cases were pointed out, the department replied (September 2007) that necessary check provisions had been made in the software. However, the data already fed into the database was yet to be rectified.

5.2.8.4 Key fields containing incorrect values

As per the Motor Vehicles Act, 1988, road tax was levied based on the parameters like sale amount in the case of private motor cars, cubic capacity in the case of private motor cycle, seating capacity in the case of passenger vehicle having stage carriage permit/contract carriage permit and laden weight in the case of goods vehicle.

The analysis of data by audit revealed that in three offices[42], in respect of 5,907 cases these fields contained the value zero and in four offices[43] in

---

[40] Chengalpattu Unit Office, Erode RTO, Madurai (South) RTO and Redhills Unit Office.

[41] Chengalpattu Unit Office, Erode RTO and Madurai (South) RTO.

[42] Chengalpattu Unit Office, Erode RTO and Madurai (South) RTO.

[43] Chengalpattu Unit Office, Erode RTO, Madurai (South) RTO and Redhills Unit Office

respect of 152 cases, the data relating to cubic capacity of vehicles had values outside the specifications of the manufacturer due to lack of input control and validation checks made during the bulk backlog entry. Though correct tax was collected through manual interventions, such incorrect information had the risk of generation of wrong MIS Reports besides implications in tax collection.

The department replied (September 2007) that necessary controls had been made in the software for not accepting zero in the key fields. However, the data already fed into the database was yet to be rectified.

5.2.8.5 Vehicle class and Make/Model

The 'Vehicle classes', were codified like 'Motor cycle', 'LMV Cars', 'Omni Bus', 'Maxi Cab', etc., with sub-codification of make/model in the software for the purpose of linking with other key fields like tax collection, granting of permit, classification as to whether transport or non-transport vehicles, etc.

Test check in four[44] offices revealed that in 31 out of 80,478 cases, due to lack of input controls in place, goods vehicles and motorcars ('Bison Tipper NIC 1611/2', Maruthi 800, 'Tempo 3 wheel minidor pickup') were incorrectly classified as motor cycle. This led to unreliability of data.

The department (September 2007) accepted the audit comment and stated that it had taken measures to stop the wrong classification of vehicles.

The Government may consider incorporating stringent input and validation controls into the system to ensure that unauthorised, invalid and non-existing data is not fed into the system.

Other deficiencies

5.2.9 Non-linking of the database with other agencies

The information regarding the theft of vehicles i.e., registration number, chassis number, vehicle type, engine number etc. contained in the department's system are shared with the Police Department. Since the functions of the Police Department had also been computerised, the databases of both departments were not linked to enable the departments to share critical information in time.

The department accepted the audit recommendation and replied (September 2007) that once all the offices were interlinked with the STA common database, the process of sharing/exchange of information with the other departments would be implemented.

[44] Chengalpattu Unit Office, Erode RTO, Madurai (South) RTO and Redhills Unit Office

5.2.10 Short levy of tax in the case of motor cycle

As per the Motor Vehicle Act, 1988, the tax for motorcycles is levied based on the cubic capacity[45] of the vehicle. During data analysis in Chengalpattu unit office, it was found that in 16 cases an amount of Rs.23,512 was short levied during January 2006 to July 2006 indicating deficient process control. The department's reply has not been received (September 2007).

5.2.11 Conclusion

Though the project was conceived as early as in 1997 and an expenditure of Rs.14 crore has been incurred, it continues to be open ended without any time frame for its full implementation. In the absence of freezing of the design, trial run before introduction in all the units and interconnectivity of the units with setting up of a common database, the scope for realisation of the larger objective of e-governance was far away. Non-creation of the central database resulted in wastage of resources in terms of manpower and storage space.

Some of the areas committed for computerisation had not been covered. The system was largely used only for collection of tax and fees and issue of licenses with continued manual interventions for rectification of errors, serving no other expected purposes. Various software deficiencies necessitated manual interventions apart from the risks of omissions. Moreover, as the application lacked essential internal controls and validation checks, the database had wrong data and could not be relied upon. In the absence of clear IT strategy and execution, the department could hardly achieve any of its objectives completely.

5.2.12 Summary of recommendations

The Goverment may consider taking the following action for rectifying the system and other issues;

- rectifying the design deficiencies in the software;
- built-in alert mechanism may be provided for capturing the information like green tax, pollution check, insurance coverage etc;
- incorporating stringent input and validation controls into the system to ensure that unauthorised, invalid and non-existing date is not fed into the system; and
- high level monitoring of change management procedure for uniform updation of tariff amendments, version of the software etc., in the field offices.

45 Power of the engine measured in terms of cubic capacity, which represents pulling capacity of the vehicle

5.3 Short collection of tax

According to Section 3 of the Tamil Nadu Motor Vehicles Taxation Act, 1974, tax shall be levied on every motor vehicle used or kept for use in the State of Tamil Nadu at the rate specified for such vehicle in the schedules. In Section 6 of the Act, different rates of tax for temporary permits issued for every motor vehicle including other State vehicles have been prescribed depending upon the period of the permit issued. As per the notification issued in November 2001, the rate of quarterly tax was increased from Rs.2,000 to Rs.3,000 per seat.

Scrutiny of the records in five[46] regional transport offices revealed that in respect of temporary permits issued for 104 vehicles, tax was either collected at the pre revised rate of Rs.2,000 per seat per quarter instead of the revised rate of Rs.3,000 per seat per quarter or was collected for a period less than the period shown in the permit. This resulted in short levy of tax of Rs.30.66 lakh.

After the cases were pointed out between July 2003 and November 2006, the Regional Transport Officer, Madurai (South) stated (September 2006) that Rs.5.72 lakh had been collected. Further report from the other regional transport officers has not been received (October 2007).

The matter was brought to the notice of the Government (December 2006/ April 2007); their reply has not been received (October 2007).

LAND REVENUE

5.4 Inordinate delay in leasing of Government land

According to the Board of Revenue's Standing Order No.24-A, Government land can be leased to private bodies, companies, associations or local bodies for use by them for commercial purposes. As per the Government order issued in December 1970, the amount of lease rent shall be fixed at the rate of 14 *per cent* of the market value. In addition to the lease rent, local cess and surcharge shall also be collected at the rates prescribed from time to time.

Test check of the records of the office of the Tahsildar, Thoothukudi in August 2006 revealed that in January 1975, permission was given by the Assistant Collector, Thoothukudi to a joint sector company to occupy 415.19 acres of Government land. The company occupied the lands in the same year and utilised it without any payment to the Government. No decision was taken by

[46] Chennai (Central), Erode, Madurai (South), Pudukkottai and Tiruvallur.

the Government to assign or lease the land to the company till 1999. After a gap of 24 years, the Government decided in December 1999 to lease the said lands to the company and directed the Land Administration Department to send the lease proposal. The District Revenue Officer, Thoothukudi forwarded the lease proposal to the Special Commissioner and Commissioner of Land Administration (SC& CLA) only in 2005 i.e., after a gap of six years.

Further scrutiny revealed that the lease proposal was returned by the department to the District Revenue Officer (DRO), Thoothukudi in April 2007 (after a delay of 18 months) stating that the consent of the company for the leasing was not obtained as required under the Revenue Department's standing order and permission of the concerned panchayat was also not obtained and sent. Thus, possession of 415.19 acres of lands remained with the company for 32 years without payment of lease rent. The inordinate delay and indecisiveness on the part of the department/Government to lease out the land deprived the Government of revenue of Rs.152.35 crore, out of which Rs.21.31 crore relates to the period from 1999 when the Government decided to lease out the lands.

The matter was reported to the Government in May 2007; their reply has not been received (October 2007).

5.5 Non-revision and non-collection of lease rent

According to the Board of Revenue's Standing Order No.24-A, when Government land is leased to private bodies, companies, associations or local bodies for use by them for commercial purposes, full competitive rent (the rent which the site would fetch, if offered in open market) is to be collected. Under the Tamil Nadu Land Revenue (additional surcharge) Act, 1955, additional surcharge at 13 *per cent* on the lease rent is leviable for the municipal areas and surcharge in lieu of local cess and surcharge. The lease rent is required to be collected in advance every year.

Test check of the records in the office of the Tahsildar, Thanjavur in September 2000 and September 2002 revealed that the Government land admeasuring 49,720 sq.ft. was leased to a person for running a star hotel for a period of 30 years from 7 June 1994. The Government in their order[47] dated 03 May 1996 fixed the lease rent at Rs.3.73 lakh per annum subject to revision once in three years. But no revision was made till 1999-2000. The matter was brought to the notice of the Government in September 2000 and it revised the lease rent[48] in June 2002. However, as per the information furnished by the department to audit in November 2005, the lessee had been paying lease rent at lesser rates since 1997-98. Against Rs.49.73 lakh due for the period from 1997-98 to 2002-03, the lessee paid only Rs.11.95 lakh. This resulted in short collection of Rs.37.78 lakh for this period.

47 G.O.Ms.No.431 (Revenue).

48 The Government revised the lease rent in June 2002 from Rs.3.73 lakh to Rs.5.24 lakh for the period from 1997-98 to 1999-2000 and Rs.5.71 lakh for 2000-01 to 2002-03.

After the case was pointed out in May 2007, the department stated in June 2007 that action would be taken to collect the lease rent in advance each year. The department also stated that for the belated payment of lease rent, a notice would be issued demanding interest.

The matter was reported to the Government in May 2007; their reply has not been received (October 2007).

URBAN LAND TAX

5.6 Omission to assess urban land tax

Under the Tamil Nadu Urban Land Tax Act, 1966, as amended from time to time, urban lands are assessable to urban land tax from 1 July 1991, on the basis of the market value of the land.

During test check of the records in the Office of the Assistant Commissioner, (Urban Land Tax) Ambattur in December 2002, it was noticed that urban lands measuring 19.10 lakh sq. ft. belonging to 29 assessees were omitted to be assessed to tax from 1 July 1991 onwards. This resulted in non-levy of urban land tax amounting to Rs.6.11 lakh.

After the cases were pointed out in March 2003, the department replied in January 2004/May 2005 that all the assessments were completed between January 2004 and May 2005. Report on collection has not been received (October 2007).

The matter was reported to the Government in April 2005; their reply has not been received (October 2007)

CHAPTER VI

NON-TAX RECEIPTS

6.1 Results of audit

Test check of the records of the departmental offices during the period from April 2006 to March 2007 revealed non/short levy of royalty, dead rent and seigniorage fee and other deficiencies amounting to Rs.8.90 crore in 44 cases as mentioned below:

(Rupees in lakh)

Sl.No.	Categories	No. of cases	Amount
A	**Mines and Minerals**		
1.	Non/short levy of royalty, dead rent and seigniorage fee	4	3.39
2.	Others	34	539.36
B	**Municipal Administration and Water Supply**	5	14.20
C	**Finance and Highways**	1	333.00
	Total	**44**	**889.95**

During the year 2006-07, the departments concerned accepted non-levy and other deficiencies involving Rs.52.71 lakh in 24 cases, out of which, Rs.10.50 lakh involved in seven cases was pointed out during the year and the rest in the earlier years. Out of the above, Rs.38.51 lakh has been recovered.

A few illustrative cases involving a financial effect of Rs.6.95 crore are mentioned in the following paragraphs:

A – MINES AND MINERALS

6.2 Short collection of royalty

According to Section 9 of the Mines and Minerals (Development and Regulation) Act, 1957, royalty for the mineral removed or consumed shall be payable by the holder of a mining lease at the rates prescribed from time to time. Under the provisions of Section 21(5) of the Act, raising of any mineral without any lawful authority from any land, warrants recovery of the minerals or price thereof, along with rent, royalty as the case may be.

Cross verification of the records of the Customs Department with the records in the office of the Assistant Director (Geology and Mining), Tirunelveli in January 2006 revealed that during the period from 2001-02 to 2004-05, three companies namely M/s Beach Mineral (Sand) Company (BMSC), M/s.Beach Mineral Company Private Limited (BMCPL) and Transworld Garnet Indian Private Limited (TGIPL) exported 5.49 lakh metric tones of garnet and ilmenite against which only 4.42 lakh metric tonnes were assessed by the department. Consequently, 1.07 lakh metric tonnes of minerals escaped assessment of royalty.

Of the three companies, one company viz., BMCPL had obtained a licence for mining only in 2004-05 even though it exported 26,062 metric tonnes of minerals during 2001-02 to 2003-04. Verification of the records with the Registrar of Companies revealed that this company was incorporated in October 2003 and commenced production only from the year 2004-05. Thus, this company had exported the above said minerals by illicit mining for which price of the minerals alongwith royalty has to be recovered. The total amount required to be recovered viz., the price of the mineral in respect of BMCPL and the differential royalty in respect of all the three companies worked out to Rs.6.74 crore.

The matter was reported to the department in January 2006 and to the Government in March 2006. The Government forwarded (January 2007) the reply of the Assistant Director (Geology and Mining) Tirunelveli, stating that in respect of TGIPL the reasons for excess might be due to the delay in shipment and in respect of the other two companies, they were in possession of the processed minerals at the beginning of 2000-01, which had been assessed in the pre-revised system. Further, the Assistant Director (Geology

and Mining) Tirunelveli had also stated in May 2007, that a special team had been deputed to reconcile the difference in figures and show cause notices had also been issued in March 2006 to BMSC and BMCPL in pursuance of the audit remarks. The Commissioner and Director of Geology and Mining reported (May 2007) that the District Collector, Tirunelveli had been instructed to furnish a detailed report after reconciling the quantity permitted vis-à-vis that transported by the lessees.

The reply is not tenable for the reasons that in respect of TGIPL, though there might have been delay in shipment, their contention that there was no evasion of royalty has not been substantiated with documentary evidence. Regarding the minerals exported out of the opening stock held in 2000-01 by BMSC, it is reiterated that the audit observation in respect of this company relates to the period 2002-03 onwards and does not pertain to the year 2000-01. In so far as BMCPL is concerned, it came into existence from October 2003 and commenced production from 2004-05 onwards only, but had quarried and exported minerals even prior to 2004 without any licence in their name. The outcome of the reconciliation and the show cause notices were also not furnished by the department (October 2007).

6.3 Non/short collection of dead rent

Under the provisions of the Tamil Nadu Minor Mineral Concession Rules, 1959, as amended from time to time, the lessee is required to pay seigniorage[49] fee or dead rent, whichever is higher at the rates prescribed from time to time. The rate of dead rent in force with effect from 1 November 2002 is Rs.15,000 per hectare per annum for black granite and Rs.2,000 for stones (blue metal).

Test check of the records in the office of the Assistant Director of Geology and Mining, Villupuram between October 2003 and September 2004 revealed that 13 lessees were granted lease for the period between April 1995 and June 2006 for mining the above mentioned minerals. However, during the periods that the quarries were not operated in the years 2002-03 and 2003-04, dead rent amounting to Rs.7 lakh was either not collected at all or short collected.

[49] Seigniorage fee represents the payments made for material or the mineral won from the land in respect of minor mineral.

After the cases were pointed out between December 2003 and October 2004, the department replied in April 2004, September/December 2006 that Rs.4.49 lakh had been collected. Report on the recovery of the balance amount demanded has not been received (October 2007).

The matter was reported to the Government (April 2007); their reply has not been received (October 2007).

B – MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT

6.4. Non-realisation of licence fees

The Tamil Nadu Public Buildings (Licensing) Act, 1965, provides for inspection and licensing of the buildings frequented by the public. Public building means any building used as school, college, university, hostel, library, hospital, club, lodging/boarding house, marriage hall, community hall, etc. According to Section 3 of the Act, all public buildings shall be used only under a valid licence obtained from the competent authority on payment of the prescribed fees. At *taluk* level, the *tahsildar* is the competent authority to issue licences. The licence, thus, granted shall be valid for a period of three years. The rate of fee varies from Rs.10 to Rs.5,000 depending on the nature and value of the building. The owner who intends to use any building as public building should apply for licence in the prescribed form.

Test check of the records in five[50] *taluks* between September and November 2006 revealed that owners of 284 public buildings did not apply for licences including renewal. This resulted in non-realisation of licence fee amounting to Rs.14.20 lakh besides non-ensuring structural soundness of the buildings.

After the cases were pointed out between October and December 2006, the *tahsildars*, Arni and Periyakulam stated that action would be taken to issue licences and collect fees. Replies from the other *tahsildars* have not been received (October 2007).

---

[50] Arni, Periyakulam, Polur, Sriperumbudur and Thiruvannamalai.

The matter was reported to the Government (February 2007); their reply has not been received (October 2007).

Chennai,
The 2 0 MAR 2008

(S.MURUGIAH)
Accountant General
(Commercial and Receipt Audit)
Tamil Nadu

Countersigned

New Delhi,
The 0 7 APR 2008

(VINOD RAI)
Comptroller and Auditor General
of India

©
COMPTROLLER AND AUDITOR GENERAL OF INDIA
2008

N.T.P. SUPPLIED BY THE DEPARTMENT
PRINTED BY THE GOVT. CENTRAL PRESS, CHENNAI-600 079